As Passed by the Senate

129th General Assembly
Regular Session **Am. Sub. H. B. No. 487**
2011-2012

Representative Amstutz (By Request)

Cosponsors: Representatives Beck, Blair, Buchy, Combs, McClain, Sears, Sprague, Stebelton, Terhar, Wachtmann
Senators Bacon, Coley, Eklund, Jones, Lehner, Niehaus

A B I L L

To amend sections 7.10, 7.16, 9.34, 102.02, 103.05, 105.41, 107.54, 109.33, 109.57, 109.572, 109.801, 119.032, 121.04, 121.08, 121.083, 121.084, 123.01, 123.011, 123.07, 123.09, 123.10, 123.101, 123.13, 123.14, 123.15, 123.152, 123.17, 123.21, 123.48, 123.77, 124.04, 124.06, 124.11, 124.12, 124.14, 124.231, 124.241, 124.25, 124.26, 124.27, 124.30, 124.31, 125.082, 125.14, 126.14, 135.35, 140.01, 140.03, 140.05, 140.08, 145.01, 145.012, 149.43, 151.01, 152.18, 152.24, 153.01, 153.011, 153.013, 153.02, 153.04, 153.06, 153.07, 153.08, 153.09, 153.11, 153.12, 153.14, 153.16, 153.17, 153.502, 153.503, 153.53, 154.01, 167.04, 173.14, 173.21, 173.23, 173.26, 173.27, 173.391, 173.394, 173.40, 173.42, 173.45, 173.46, 185.01, 185.02, 185.03, 185.05, 185.06, 185.07, 185.09, 185.12, 189.04, 189.05, 189.06, 189.08, 306.04, 306.36, 306.55, 307.05, 307.051, 307.055, 313.121, 313.122, 313.16, 329.01, 329.40, 329.41, 329.42, 329.43, 329.44, 329.45, 329.46, 330.04, 339.091, 340.03, 340.05, 340.091, 505.37, 505.375, 505.44, 505.72,

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5119.85, 5119.86, 5119.87, 5119.88, 5123.082, 5123.083, 5123.192, 5126.0222, 5126.252, 5126.26, 5126.27, 5126.28, 5126.281, 5126.29, and 5501.09 of the Revised Code; to repeal section 3356.10 of the Revised Code five years after the effective date of that section; to amend Section 753.20 of Am. Sub. H.B. 114 of the 129th General Assembly, Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly, as subsequently amended, Section 201 of Sub. H.B. 123 of the 129th General Assembly, Section 1 of H.B. 124 of the 129th General Assembly, Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, 209.30, 211.10, 215.10, 215.20, 223.10, 229.10, 243.10, 261.10.40, 261.10.70, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 267.10.40, 267.30.20, 267.30.40, 279.10, 283.10, 287.10, 291.10, 307.10, 309.10, 309.30.10, 309.30.30, 309.30.33, 309.30.53, 309.30.73, 309.35.73, 313.10, 315.10, 323.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 367.10, 369.10, 371.10, 371.30.30, 371.50.61, 371.50.65, 371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, and 521.70 of Am. Sub. H.B. 153 of the 129th General Assembly, Sections 247.10, 261.10, and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as subsequently amended, Section 8 of Sub. H.B. 369 of the 129th General Assembly,

Section 4 of Sub. S.B. 171 of the 129th General Assembly, Section 701.10 of Sub. S.B. 312 of the 129th General Assembly, Section 3 of Am. Sub. S.B. 160 of the 121st General Assembly, and Section 3 of Am. Sub. S.B. 38 of the 120th General Assembly; to repeal Sections 261.10.10, 261.10.20, 261.10.30, 261.10.50, 261.10.60, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 261.20.70, 261.30.50, and 263.10.80 of Am. Sub. H.B. 153 of the 129th General Assembly; and Section 2 of Am. Sub. S.B. 63 of the 121st General Assembly and to amend the versions of sections 5122.31, 5123.19, and 5123.61 of the Revised Code that are scheduled to take effect October 1, 2012, to continue the provisions of this act on and after that effective date; to make operating and other appropriations and to provide authorization and conditions for the operation of state programs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 101.01. That sections 7.10, 7.16, 9.34, 102.02, 103.05, 105.41, 107.54, 109.33, 109.57, 109.572, 109.801, 119.032, 121.04, 121.08, 121.083, 121.084, 123.01, 123.011, 123.07, 123.09, 123.10, 123.101, 123.13, 123.14, 123.15, 123.152, 123.17, 123.21, 123.48, 123.77, 124.04, 124.06, 124.11, 124.12, 124.14, 124.231, 124.241, 124.25, 124.26, 124.27, 124.30, 124.31, 125.082, 125.14, 126.14, 135.35, 140.01, 140.03, 140.05, 140.08, 145.01, 145.012, 149.43, 151.01, 152.18, 152.24, 153.01, 153.011, 153.013, 153.02, 153.04, 153.06, 153.07, 153.08, 153.09, 153.11, 153.12, 153.14, 153.16, 153.17, 153.502, 153.503, 153.53, 154.01, 167.04, 173.14, 173.21, 173.23, 173.26, 173.27, 173.391, 173.394, 173.40, 173.42, 173.45, 173.46, 185.01, 185.02, 185.03, 185.05, 185.06, 185.07,

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955.26, 991.02, 1121.23, 1155.03, 1163.05, 1315.141, 1317.05,
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(4781.34), 3733.03 (4781.27), 3733.04 (4781.28), 3733.05 (4781.29), 3733.06 (4781.30), 3733.07 (4781.301), 3733.08 (4781.35), 3733.09 (4781.36), 3733.091 (4781.37), 3733.10 (4781.38), 3733.101 (4781.39), 3733.11 (4781.40), 3733.12 (4781.41), 3733.121 (4781.42), 3733.122 (4781.43), 3733.123 (4781.44), 3733.13 (4781.45), 3733.14 (4781.46), 3733.15 (4781.47), 3733.16 (4781.48), 3733.17 (4781.49), 3733.18 (4781.50), 3733.19 (4781.51), 3733.20 (4781.52), 5123.169 (5123.1610), 5503.21 (5502.05), 5503.22 (5502.06), and 5503.23 (5502.07) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new sections 123.21, 3701.33, 3701.34, 3702.526, 4905.80, 4905.81, 4921.01, 4921.03, 4921.05, 4921.07, 4921.09, 4921.11, 4921.13, 4921.15, 4921.16, 4921.19, 4921.25, 4921.30, 4921.32, 4921.36, 4921.38, 4923.01, 4923.02, 4923.04, 4923.06, 4923.07, 4923.09, 4923.11, 4923.99, 5123.169, and 5123.192 and sections 101.312, 119.033, 121.35, 123.20, 123.201, 123.23, 123.26, 127.163, 127.164, 171.021, 189.041, 191.01, 191.02, 191.04, 191.06, 505.59, 901.53, 1321.537, 1321.538, 1322.042, 1322.043, 1533.081, 2329.192, 3305.031, 3305.032, 3356.10, 3366.05, 3375.405, 3701.77, 3701.771, 3701.772, 3701.773, 3701.774, 3701.775, 3701.921, 3701.922, 3701.93, 3701.931, 3701.932, 3701.933, 3701.934, 3701.935, 3701.936, 3701.937, 3701.938, 3701.9310, 3701.9311, 3701.9312, 3701.9314, 3702.511, 3702.527, 3793.041, 3798.01, 3798.02, 3798.03, 3798.04, 3798.06, 3798.07, 3798.08, 3798.10, 3798.12, 3798.13, 3798.14, 3798.15, 3798.16, 4731.297, 4781.121, 4781.54, 4921.21, 4921.34, 4923.15, 5111.246, 5111.946, 5111.96, 5112.331, 5139.511, 5705.252, 5705.72, and 5713.012 of the Revised Code be enacted to read as follows:

Sec. 7.10. For the publication of advertisements, notices, and proclamations, except those relating to proposed amendments to

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

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

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

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

Sec. 7.16. (A) As used in this section:

(1) "State agency" means any organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government, including state institutions of higher education, as defined in section 3345.011 of the Revised Code.

(2) "Political subdivision" has the meaning defined in section 2744.01 of the Revised Code.

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

(1) It is published in the newspaper of general circulation in which the first publication of the notice or advertisement was made and is published on that newspaper's internet web site, if the newspaper has one.

(2) It is published on the state public notice web site established under section 125.182 of the Revised Code.

(3) It includes a title, followed by a summary paragraph or

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

~~(3)~~(4) It includes the internet addresses of the state public notice web site, and of the newspaper's and state agency's or political subdivision's internet web site if the notice or advertisement is posted on those web sites, and the name, address, telephone number, and electronic mail address of the state agency, political subdivision, or other party responsible for publication of the notice or advertisement.

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

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

Sec. 9.34. (A) The fiscal year of the state ~~and of~~, every school district, and, beginning July 1, 2013, the city of Cincinnati, shall begin on the first day of July of each calendar year and end at the close of the thirtieth day of June of the succeeding calendar year. The fiscal year of every school library

district, and all political subdivisions or taxing ~~districts~~ units except school districts and the city of Cincinnati, and of every officer, department, commission, board, or institution thereof, shall begin at the opening of the first day of January of each calendar year and end at the close of the succeeding thirty-first day of December. Except as otherwise provided for school districts and as otherwise provided in division (B) of this section, all laws relating to the levying of taxes, the collection, appropriation, or expenditure of revenues, or the making of financial reports or statements for a fiscal year or other year refer and apply to the fiscal year as defined in this division. Reports required by sections 3319.32 to 3319.37 of the Revised Code shall be for the school year as defined in section 3313.62 of the Revised Code.

(B) Nothing in this section prohibits a subdivision, other than a school district or county school financing district, from using a different fiscal year or other fiscal period for one or more of its funds, including when that fiscal year or period is the same as the fiscal year of an entity providing money for the fund or the fiscal period of a capital project. Use of a different fiscal year or period shall be consistent with generally accepted accounting principles, and shall be approved by the fiscal officer of the subdivision and by the auditor of state. If a subdivision uses a different fiscal year or period under this section, the auditor of state may require the subdivision to continue to maintain financial reports or statements on the basis of the fiscal year prescribed by division (A) of this section.

(C) Taxes or other revenues collected in or on hand in any fiscal year for the purposes of the next or any subsequent fiscal year shall not be appropriated or expended prior to such next or subsequent year. School district property taxes shall be subject to appropriation as provided in division (B) of section 5705.35 of

the Revised Code. Budgets shall be designated and known by the fiscal year for the purposes for which they are made.

(D) As used in this section, "fiscal officer," "school library district," "subdivision," and "taxing ~~district~~ unit" have the same meanings as in section 5705.01 of the Revised Code.

Sec. 101.312. (A) The person serving as the senate sergeant at arms or employed as an assistant senate sergeant at arms has all of the authority of a peace officer as specified in division (B) of this section, and one of the following shall apply to that person:

(1) The person is serving as the senate sergeant at arms or is employed as an assistant senate sergeant at arms on the effective date of this section and previously had been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program.

(2) The person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program, the person previously has been employed as a peace officer, the prior employment of the person as a peace officer contains no breaks in service that would require the person to receive updated training by the Ohio peace officer training academy, and the person has successfully completed a firearms requalification program under section 109.801 of the Revised Code.

(3) The person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an

approved state, county, municipal, or department of natural resources peace officer basic training program, the person previously has been employed as a peace officer, the prior employment of the person as a peace officer contains a break in service of one year or more but not more than four years that would require the person to receive updated training under state law, the person has received all updated training required by law, and the person has successfully completed a firearms requalification program under section 109.801 of the Revised Code.

(4) The person previously has been employed as a trooper of the state highway patrol, within one year prior to employment as the senate sergeant at arms the person had arrest authority as a trooper of the state highway patrol, and the person has successfully completed a firearms requalification program under section 109.801 of the Revised Code.

(5) The person previously has been employed as a trooper of the state highway patrol, the prior employment as a trooper of the state highway patrol contains a break in service of one year or more but not more than four years that would require the person to receive updated training under state law, the person has received all updated training required by law, and the person has successfully completed a firearms requalification program under section 109.801 of the Revised Code.

(B) The senate sergeant at arms and an assistant senate sergeant at arms have the authority specified under section 2935.03 of the Revised Code for peace officers to enforce all state laws, municipal ordinances, and township resolutions and to make arrests for any violation of those laws, ordinances, and resolutions in the statehouse or anywhere in the state where the senate sergeant at arms or the assistant sergeant at arms is engaged in the performance of the senate sergeant at arms's or assistant sergeant at arms's official duties. The jurisdiction of

the senate sergeant at arms and of an assistant senate sergeant at arms is concurrent with that of peace officers of the county, township, or municipal corporation in which the violation occurs and with the state highway patrol.

(C) Upon receiving a written recommendation from the clerk of the senate, the president of the senate may issue to the senate sergeant at arms a commission indicating the sergeant at arms's authority to make arrests as provided in this section. The president of the senate, upon the recommendation of the senate sergeant at arms, may issue to each assistant senate sergeant at arms a commission indicating the assistant sergeant at arms's authority to make arrests as provided in this section. The president of the senate shall furnish a suitable badge to the senate sergeant at arms and to each commissioned assistant senate sergeant at arms as evidence of the senate sergeant at arms's or assistant senate sergeant at arms's authority.

(D) In order to maintain employment as the senate sergeant at arms or to be an assistant sergeant at arms with all of the authority of a peace officer, the sergeant at arms or assistant shall comply with all continuing professional training requirements for peace officers established in rules that the attorney general adopts under section 109.74 of the Revised Code and shall comply with firearms requalification requirements established under section 109.801 of the Revised Code. The senate sergeant at arms or assistant sergeant at arms shall provide appropriate proof of the sergeant at arms's or assistant's compliance with the continuing professional training requirements and firearms requalification requirements to the clerk of the senate. The Ohio peace officer training academy, a state, county, municipal, or department of natural resources training program, or any other program offering continuing training of that nature shall admit the senate sergeant at arms or an assistant senate

sergeant at arms to all necessary continuing training programs.

(E) This section does not affect or abridge the authority or responsibility of the state highway patrol.

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

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

The disclosure statement shall include all of the following:

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

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

official or employee knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

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

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division

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

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

association with which the person filing the statement has a deposit or a withdrawable share account.

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

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

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

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

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

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

(9) Except as otherwise provided in section 102.022 of the

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

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

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement no later than the thirtieth day before the primary, special, or general election at which the candidacy is to be voted on, whichever election occurs soonest, except that a person who is a write-in candidate shall file the statement no later than the twentieth day before the earliest election at which the person's candidacy is to be voted on. A person who holds

elective office shall file the statement on or before the fifteenth day of April of each year unless the person is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within fifteen days after the person qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April or, if appointed or employed after that date, within ninety days after appointment or employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

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

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

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

date, in which case the notice shall be sent within thirty days after appointment, and the filing shall be made not later than ninety days after appointment.

Except for disclosure statements filed by members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation, disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by the individuals set forth in division (B)(2) of section 187.03 of the Revised Code shall be kept confidential. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure

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

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

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

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

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

For state office, except member of the state board of education	$95
For office of member of general assembly	$40
For county office	$60
For city office	$35
For township office	$35
For office of member of the state board of education	~~$25~~ $35
~~For office of member of the Ohio~~	

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

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

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

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

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

(2) The Ohio ethics commission shall deposit all receipts,

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

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

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

Sec. 103.05. (A) The director of the legislative service commission shall be the codifier of the rules of the administrative agencies of the state. When a rule is filed under section 111.15, 119.04, 4141.14, or 5703.14 of the Revised Code, the director or the director's designee shall examine the rule. If

the rule is not numbered or if the numbering of the rule is not in conformity with the system established by the director, the director shall give the rule its proper number by designating the proper number on the left hand margin of the rule. The number shall be the official administrative code number of the rule. Any number so assigned shall be published in any publication of the administrative code. Rules of the administrative code shall be cited and referred to by such official numbers.

The legislative service commission shall, pursuant to section 111.15 of the Revised Code, adopt, amend, and rescind any rules that are necessary to provide a uniform administrative code; to provide standards for use by the director in determining whether to include in the administrative code the full text of, or a reference to, any rule filed with the commission; to permit the director to discharge the director's duties and exercise the director's powers as described in this section; and to permit the director to discharge the director's duties and exercise the director's powers with respect to establishing and maintaining, and enhancing and improving, the electronic rule-filing system under section 103.0511 of the Revised Code.

When the commission adopts rules to provide standards for use by the director in determining whether to include the full text of, or a reference to, a rule in the administrative code, it shall consider all of the following:

(1) Whether the rule applies uniformly to all citizens of the state;

(2) Whether the rule applies uniformly to all political subdivisions of the state;

(3) Whether the rule affects the health, welfare, and safety of the citizens of the state;

(4) Whether the rule applies only to the internal affairs of

the agency adopting the rule;

(5) The number of persons affected by the rule;

(6) Whether the rule affects the statutory or constitutional rights of any person.

The director or the director's designee shall accept any rule that is filed under section 111.15, 119.04, 4141.14, or 5703.14 of the Revised Code. If the director or the director's designee accepts a rule that is not in compliance with the rules of the commission, the director shall give notice of the noncompliance in electronic form to the agency that filed the rule within thirty days after the date on which the rule is filed. The notice shall indicate why the rule does not comply with the rules of the commission and how the rule can be brought into compliance. The failure of the director to give an agency notice within the thirty-day period shall presumptively establish that the rule complies with the rules of the commission.

(B) Any person may publish an acceptable code. The director shall approve as acceptable any person's publication of the code conforming to the requirements of this division.

An Ohio administrative code approved as acceptable by the director shall:

(1) Contain a compilation of the full text of, or a reference to, each rule filed under sections 111.15, 119.04, 4141.14, and 5703.14 of the Revised Code;

(2) Presumptively establish the rules of all agencies adopting rules under section 111.15, 4141.14, 5703.14, or Chapter 119. of the Revised Code that are in effect on the day of its initial publication;

(3) Contain the full text of, or a reference to, each rule adopted after its initial publication and be updated at least

quarterly;

(4) Contain an index of the rules and references to rules that are included in the code and each supplement using terms easily understood by the general public;

(5) Be published in electronic or print format following, to the extent possible, the subject matter arrangement of the Revised Code;

(6) Be numbered according to the numbering system devised by the director.

(C) ~~If the director does not approve as acceptable any publication of the administrative code, the~~ The director~~, subject to division (D) of this section,~~ may prepare and publish the code, or contract with any person under this division to prepare and publish the code. Any code published under this division shall include all of the requirements of division (B) of this section. In addition, the director shall furnish any code or supplement published under this division to any person who requests the code or supplement upon payment of a charge established by the director, not to exceed the cost of preparation and publication.

Upon the request of the director of the legislative service commission under this division, the director of administrative services, in accordance with the competitive selection procedure of Chapter 125. of the Revised Code, shall let a contract for the compilation, preparation, and printing or publication of the administrative code and supplements.

~~(D) The director shall not prepare and publish the administrative code in a print mode or any other mode under division (B) or (C) of this section unless no other person is willing and qualified to publish a version of the code in that mode that the director has approved as acceptable.~~

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

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

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

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

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

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

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

representatives.

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

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

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

(1) Employ or hire on a consulting basis professional, technical, and clerical employees as are necessary for the performance of its duties. All employees of the board are in the unclassified service and serve at the pleasure of the board. For purposes of section 4117.01 of the Revised Code, employees of the board shall be considered employees of the general assembly, except that employees who are covered by a collective bargaining agreement on ~~the effective date of this amendment~~ September 29, 2011, shall remain subject to the agreement until the agreement expires on its terms, and the agreement shall not be extended or renewed. Upon expiration of the agreement, the employees are considered employees of the general assembly for purposes of section 4117.01 of the Revised Code and are in the unclassified service and serve at the pleasure of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) All moneys received by the treasurer of state on account of the board and required by the applicable bond proceedings or by separate agreement with the board to be deposited, transferred, or credited to the bond service fund or bond service reserve fund established by the bond proceedings shall be transferred by the treasurer of state to such fund, whether or not it is in the

custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings.

(G) ~~All~~ (1) Except as otherwise provided in division (G)(2) of this section, all fees, receipts, and revenues received by the board from the state underground parking garage shall be deposited into the state treasury to the credit of the underground parking garage operating fund, which is hereby created, to be used for the purposes specified in division (F) of this section and for the operation and maintenance of the garage. All investment earnings of the fund shall be credited to the fund.

(2) There is hereby created the parking garage automated equipment fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. Money in the fund shall be used to purchase the automated teller machine quality dollar bills needed for operation of the parking garage automated equipment. The fund shall consist of fees, receipts, or revenues received by the board from the state underground parking garage; provided, however, that the total amount deposited into the fund at any one time shall not exceed ten thousand dollars. All investment earnings of the fund shall be credited to the fund.

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

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

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

(3) To award contracts or make grants to organizations for

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

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

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

(K) As the operation and maintenance of the capitol square constitute essential government functions of a public purpose, the board shall not be required to pay taxes or assessments upon the

square, upon any property acquired or used by the board under this section, or upon any income generated by the operation of the square.

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

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

Sec. 107.54. (A)(1) When the common sense initiative office receives a draft rule and business impact analysis from an agency, the office shall evaluate the draft rule and analysis against the business impact analysis instrument and any other relevant criteria, and may prepare and transmit recommendations to the agency on how the draft rule might be revised to eliminate or reduce any adverse impact the draft rule might have on businesses.

(2) When the office receives a rule and business impact analysis from an agency under division (A)(2) of section 119.033 of the Revised Code, the office shall evaluate the rule and analysis against the business impact analysis instrument and any other relevant criteria, and may prepare and transmit recommendations to the agency on how the rule might be amended or rescinded to eliminate or reduce any adverse impact the rule has on businesses.

(B) The office shall transmit any such recommendations electronically to the agency. If the office fails to make such a transmission after receiving the draft rule and business impact analysis, it is as if the office had elected not to make any recommendations.

Sec. 109.33. The attorney general may appoint, with salaries fixed pursuant to section 124.15 or 124.152 of the Revised Code,

such assistants and may employ such stenographers and clerks as may be necessary to carry out sections 109.23 to 109.33 of the Revised Code. The attorney general may also employ or contract experts for assistance in any specific matter at a reasonable rate of compensation.

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of

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

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving a misdemeanor described in division (A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised Code, or involving an adjudication in a case in which a child under eighteen years of age was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. The clerk of the court of common pleas shall include in the report and summary the clerk sends under this division all information described in divisions

(A)(2)(a) to (f) of this section regarding a case before the court of appeals that is served by that clerk. The summary shall be written on the standard forms furnished by the superintendent pursuant to division (B) of this section and shall include the following information:

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

(b) The style and number of the case;

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

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

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

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

If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the

superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

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

imposed on the bureau under that chapter.

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

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

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

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

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

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

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

enforcement gateway.

The attorney general may appoint a steering committee to advise the attorney general in the operation of the Ohio law enforcement gateway that is comprised of persons who are representatives of the criminal justice agencies in this state that use the Ohio law enforcement gateway and is chaired by the superintendent or the superintendent's designee.

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

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

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

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

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

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

listed in division (A)(1)~~, (3), (4), (5),~~ or ~~(6)~~(2) of section 109.572 of the Revised Code or has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense as defined in section 173.394, 3701.881, or 5111.032 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

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

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, division (C) of section 3310.58, or section 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, ~~5126.28, 5126.281,~~ or 5153.111 of the Revised Code or that is made under section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the board of education of any school district; the director of developmental disabilities; any county board of developmental disabilities; any ~~entity under contract with a county board of developmental disabilities~~ provider or subcontractor as defined in section 5123.081 of the Revised Code; the chief administrator of any chartered nonpublic school; the chief administrator of a registered private provider that is not also a chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st

general assembly; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education or a registered private provider is required to receive information under this section as a prerequisite to employment of an individual pursuant to division

(C) of section 3310.58 or section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district or provider only shall accept a certified copy of records of that nature within one year after the date of their issuance by the bureau.

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

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

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

(5) When a recipient of a classroom reading improvement grant

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

(G) In addition to or in conjunction with any request that is required to be made under section 3701.881, 3712.09, or 3721.121~~, 5119.693, or 5119.85~~ of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult or adult resident, the chief administrator of a home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, or adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code~~, adult foster home, or adult care facility~~ may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult or adult resident, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

In addition to or in conjunction with any request that is required to be made under section 173.27 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing ombudsperson services to residents of long-term care facilities or recipients of community-based long-term care services, the state long-term care ombudsperson, ombudsperson's designee, or director of health may request that the superintendent investigate and determine, with

respect to any individual who has applied for employment in a position that does not involve providing such ombudsperson services, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

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

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

(H) Information obtained by a government entity or person

under this section is confidential and shall not be released or disseminated.

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

(J) As used in this section:

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

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

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23,

2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

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

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

~~person who is the subject of the request has been convicted of or pleaded guilty to any of the following:~~

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

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

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

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

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)~~(3)~~(2)(a) of this section.

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

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

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

~~(5)~~(3) On receipt of a request pursuant to section 173.27, 173.394, 3701.881, 5111.032, 5111.033, ~~or~~ 5111.034, 5123.081, or 5123.169 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check of the person for whom the request is made. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for ~~any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction:~~

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03,~~

~~2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;~~

~~(b) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(5)(a) of this section~~ a disqualifying offense as defined in the section of the Revised Code under which the request is made.

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

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

~~2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;~~

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

~~(7)~~(4) When conducting a criminal records check upon a request pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, in addition to the determination made under division (A)(1) of this section, the superintendent shall determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any offense specified in section 3319.31 of the Revised Code.

~~(8)~~(5) On receipt of a request pursuant to section 2151.86 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321,

2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)~~(8)~~(5)(a) of this section.

~~(9)~~(6) Upon receipt of a request pursuant to section 5104.012 or 5104.013 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04,

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

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (A)~~(9)~~(6)(a) of this section.

~~(10)~~(7) Upon receipt of a request pursuant to section 5153.111 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to

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

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

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)~~(10)~~(7)(a) of this section.

~~(11)~~(8) On receipt of a request for a criminal records check from an individual pursuant to section 4749.03 or 4749.06 of the Revised Code, accompanied by a completed copy of the form prescribed in division (C)(1) of this section and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating

that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state. If the individual indicates that a firearm will be carried in the course of business, the superintendent shall require information from the federal bureau of investigation as described in division (B)(2) of this section. The superintendent shall report the findings of the criminal records check and any information the federal bureau of investigation provides to the director of public safety.

~~(12)~~(9) On receipt of a request pursuant to section 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for a license, permit, or certification from the department of commerce or a division in the department. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following: a violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2925.03 of the Revised Code; any other criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code; or any existing or former law of this state, any other state, or the United States that is substantially equivalent to those offenses.

~~(13)~~(10) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. The superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

~~(14)~~(11) On receipt of a request pursuant to section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense under any existing or former law of this state, any other state, or the United States.

~~(15)~~(12) On receipt of a request for a criminal records check from an appointing or licensing authority under section 3772.07 of the Revised Code, a completed form prescribed under division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner prescribed in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty or no contest to any offense under any existing or former law of this state, any other state, or the United States that is a disqualifying offense as defined in section 3772.07 of the Revised Code or substantially equivalent to such an offense.

~~(16)~~(13) On receipt of a request pursuant to section 2151.33 or 2151.412 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person for whom a criminal records check is required by that section. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

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

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(13)(a) of this section.

(14) Not later than thirty days after the date the superintendent receives a request of a type described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), ~~(10),~~ (11), (12), ~~(14),~~ or ~~(15)~~(13) of this section, the completed form, and the fingerprint impressions, the superintendent shall send the results of the criminal records check to the person, board, or entity that made the request ~~any information, other than~~. The superintendent shall exclude from the results any information the dissemination of which is prohibited by federal law~~, the superintendent determines exists with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this section, as appropriate~~. The superintendent shall send the person, board, or entity that made the request a copy of the list of offenses ~~specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this section, as appropriate~~ for which the criminal records check was conducted. ~~If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult, the superintendent shall provide a list of the offenses specified in divisions (A)(4) and (6) of this section.~~

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

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

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

5104.013, 5111.032, 5111.033, 5111.034, ~~5119.693, 5119.85,~~ 5123.081, ~~5126.28, 5126.281,~~ 5123.169, or 5153.111 of the Revised Code, any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

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

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

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is ~~requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~

~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code~~ to be conducted under this section. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

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

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

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check ~~requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code~~ under this section. The person ~~making a~~ requesting the criminal records ~~request under any of those sections~~ check shall pay the fee prescribed pursuant to this division. ~~A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request.~~ In the case of a request under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, 2151.33, 2151.412, or 5111.032 of the Revised Code, the fee shall be paid in the manner specified in that section.

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

(D) ~~A determination whether any information exists that~~

~~indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or (b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), (A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15) of this section, or that indicates that a person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state regarding a criminal records check of a type described in division (A)(13) of this section, and that is made by the superintendent with respect to information considered in~~ The results of a criminal records check ~~in accordance with~~ conducted under this section ~~is~~, other than a criminal records check specified in division (A)(8) of this section, are valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent ~~makes the determination~~ completes the criminal records check. ~~During the~~ If during that period ~~in which the determination in regard to a person is valid, if~~ the superintendent receives another request ~~under this section is made~~ for a criminal records check to be conducted under this section for that person, the superintendent shall provide the ~~information that is the basis for the superintendent's initial determination~~ results from the previous criminal records check of the person at a lower fee than the fee prescribed for the initial criminal records check.

(E) When the superintendent receives a request for information from a registered private provider, the superintendent shall proceed as if the request was received from a school district board of education under section 3319.39 of the Revised Code. The superintendent shall apply division (A)~~(7)~~(4) of this section to any such request for an applicant who is a teacher.

(F) As used in this section:

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

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

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

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

~~(5)~~(4) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

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

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

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

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

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

Sec. 119.032. (A) As used in this section and in section 119.033 of the Revised Code:

(1) "Agency" includes both an agency as defined in division (A)(2) of section 111.15 and an agency as defined in division (A) of section 119.01 of the Revised Code.

(2) "Review date" means the review date assigned to a rule by an agency ~~under division (B) or (E)(2) of this section or under section 111.15, 119.04, or 4141.14 of the Revised Code or a review date~~ or an extended review date assigned to a rule by the joint committee on agency rule review ~~under division (B) of this section~~.

(3)(a) "Rule" means only a rule whose adoption, amendment, or rescission is subject to review under division (D) of section 111.15 or division (H) of section 119.03 of the Revised Code.

(b) "Rule" does not include ~~a rule adopted, amended, or rescinded by the department of taxation under section 5703.14 of the Revised Code,~~ a rule of a state college or university, community college district, technical college district, or state community college, or a rule that is consistent with and equivalent to the form required by a federal law and that does not exceed the minimum scope and intent of that federal law.

(B) ~~Not later than March 25, 1997, each agency shall assign a review date to each of its rules that is currently in effect and shall notify the joint committee on agency rule review of the review date for each such rule. The agency shall assign review dates to its rules so that approximately one-fifth of the rules are scheduled for review during each calendar year of the five-year period that begins March 25, 1997, except that an agency, with the joint committee's approval, may set a review schedule for the agency's rules in which there is no requirement that approximately one-fifth of the agency's rules be assigned a review date during each calendar year of the five-year period but in which all of the agency's rules are assigned a review date during that five-year period.~~ An agency may change the review dates it has assigned to specific rules so long as the agency complies with the five-year time deadline ~~specified in this division~~.

Upon the request of the agency that adopted the rule, the joint committee on agency rule review may extend a review date of a rule to a date that is not later than one hundred eighty days after the ~~original~~ review date assigned to the rule by the agency ~~under this division, division (E)(2) of this section, or section 111.15, 119.04, or 4141.14 of the Revised Code~~. The joint

committee may further extend a review date that has been extended under this paragraph if appropriate under the circumstances.

(C) Prior to the review date of a rule, the agency that adopted the rule shall review the rule to determine all of the following:

(1) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;

(2) Whether the rule needs amendment or rescission to give more flexibility at the local level;

(3) Whether the rule needs amendment or rescission to eliminate unnecessary paperwork, or whether the rule incorporates a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by section 121.74 of the Revised Code and whether the incorporation by reference meets the standards stated in sections 121.72, 121.75, and 121.76 of the Revised Code;

(4) Whether the rule duplicates, overlaps with, or conflicts with other rules;

(5) Whether the rule has an adverse impact on businesses, reviewing the rule as if it were a draft rule being reviewed under sections 107.52 and 107.53 of the Revised Code, and whether any such adverse impact has been eliminated or reduced.

~~(D)~~ In making ~~the~~ its review ~~required under division (C) of this section~~, the agency shall consider the continued need for the rule, the nature of any complaints or comments received concerning the rule, and any relevant factors that have changed in the subject matter area affected by the rule.

~~(E)(1) On or before the designated review date of a rule, the~~

~~agency that adopted the rule shall proceed under division (E)(2) or (5) of this section to indicate that the agency has reviewed the rule.~~

~~(2) If the agency has determined that the rule does not need to be amended or rescinded, the agency shall file all the following, in electronic form, with the joint committee on agency rule review, the secretary of state, and the director of the legislative service commission: a copy of the rule, a statement of the agency's determination, and an accurate rule summary and fiscal analysis for the rule as described in section 127.18 of the Revised Code. The agency shall assign a new review date to the rule, which shall not be later than five years after the rule's immediately preceding review date. After the joint committee has reviewed such a rule for the first time, including any rule that was in effect on September 26, 1996, the agency in its subsequent reviews of the rule may provide the same fiscal analysis it provided to the joint committee during its immediately preceding review of the rule unless any of the conditions described in division (B)(4), (5), (6), (8), (9), or (10) of section 127.18 of the Revised Code, as they relate to the rule, have appreciably changed since the joint committee's immediately preceding review of the rule. If any of these conditions, as they relate to the rule, have appreciably changed, the agency shall provide the joint committee with an updated fiscal analysis for the rule. If no review date is assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its immediately preceding review date. The joint committee shall give public notice in the register of Ohio of the agency's determination after receiving a notice from the agency under division (E)(2) of this section. The joint committee shall transmit a copy of the notice in electronic form to the director of the legislative service commission. The director shall publish the notice in the register of Ohio for four consecutive

~~weeks after its receipt.~~

~~(3) During the ninety-day period following the date the joint committee receives a notice under division (E)(2) of this section but after the four-week period described in division (E)(2) of this section has ended, the joint committee, by a two-thirds vote of the members present, may recommend the adoption of a concurrent resolution invalidating the rule if the joint committee determines that any of the following apply:~~

~~(a) The agency improperly applied the criteria described in divisions (C) and (D) of this section in reviewing the rule and in recommending its continuance without amendment or rescission.~~

~~(b) The agency failed to file proper notice with the joint committee regarding the rule, or if the rule incorporates a text or other material by reference, the agency failed to file, or to deposit or display, the text or other material incorporated by reference as required by section 121.73 or 121.74 of the Revised Code or the incorporation by reference fails to meet the standards stated in section 121.72, 121.75, or 121.76 of the Revised Code.~~

~~(c) The rule has an adverse impact on businesses, as determined under section 107.52 of the Revised Code, and the agency has not eliminated or reduced that impact as required under section 121.82 of the Revised Code.~~

~~(4) If the joint committee does not take the action described in division (E)(3) of this section regarding a rule during the ninety-day period after the date the joint committee receives a notice under division (E)(2) of this section regarding that rule, the rule shall continue in effect without amendment and shall be next reviewed by the joint committee by the date designated by the agency in the notice provided to the joint committee under division (E)(2) of this section.~~

~~(5) If the agency has determined that a rule reviewed under~~

~~division (C) of this section needs to be amended or rescinded, the agency, on or before the rule's review date, shall file the rule as amended or rescinded in accordance with section 111.15, 119.03, or 4141.14 of the Revised Code, as applicable.~~

~~(6)~~(D) Prior to the review date of a rule, the agency that adopted the rule shall determine, on the basis of its review of the rule, whether the rule needs to be amended or rescinded.

(1) If the rule needs to be amended or rescinded, the agency, on or before the review date of the rule, shall commence the process of amending or rescinding the rule in accordance with its review of the rule.

(2) If the rule does not need to be amended or rescinded, proceedings shall be had under section 119.033 of the Revised Code.

(E) Each agency shall provide the joint committee with a copy of the rules that it has determined are rules described in division (A)(3)(b) of this section. At a time the joint committee designates, each agency shall appear before the joint committee and explain why it has determined that such rules are rules described in division (A)(3)(b) of this section. The joint committee, by a two-thirds vote of the members present, may determine that any of such rules are rules described in division (A)(3)(a) of this section. After the joint committee has made such a determination relating to a rule, the agency shall thereafter treat the rule as a rule described in division (A)(3)(a) of this section.

(F) If an agency fails to ~~provide the notice to the joint committee required under division (E)(2) of this section regarding a rule or otherwise fails by the rule's review date to take any action regarding the rule required by~~ comply with this section or section 119.033 of the Revised Code, the joint committee, by a

majority vote of the members present, may recommend the adoption of a concurrent resolution invalidating the rule. The joint committee shall not recommend the adoption of such a resolution until it has afforded the agency the opportunity to appear before the joint committee to show cause why the joint committee should not recommend the adoption of such a resolution regarding that rule.

(G) If the joint committee recommends adoption of a concurrent resolution invalidating a rule under ~~division (E)(3) or (F) of~~ this section or section 119.033 of the Revised Code, the adoption of the concurrent resolution shall be in the manner described in division (I) of section 119.03 of the Revised Code.

Sec. 119.033. If an agency, on the basis of its review of a rule under section 119.032 of the Revised Code, determines that the rule does not need to be amended or rescinded, proceedings shall be had as follows:

(A)(1) If, considering only the standard of review specified in division (C)(5) of section 119.032 of the Revised Code, the rule has an adverse impact on businesses that has not been eliminated or reduced, the agency shall prepare a business impact analysis that describes its review of the rule under that division and that explains why the rule is not being amended or rescinded to reduce or eliminate its adverse impact on businesses. If the rule does not have an adverse impact on businesses, the agency may proceed under division (B) of this section.

(2) The agency shall transmit a copy of the full text of the rule and the business impact analysis electronically to the common sense initiative office. The office shall make the rule and analysis available to the public on its web site under section 107.62 of the Revised Code.

(3) The agency shall consider any recommendations made by the

office.

(4) Not earlier than the sixteenth business day after transmitting the rule and analysis to the office, the agency shall either (a) proceed under division (B) of this section or (b) commence, under division (D)(1) of section 119.032 of the Revised Code, the process of rescinding the rule or of amending the rule to incorporate into the rule features the recommendations suggest will eliminate or reduce the adverse impact the rule has on businesses. If the agency determines to amend or rescind the rule, the agency is not subject to the time limit specified in division (D)(1) of section 119.032 of the Revised Code.

(5) If the agency receives recommendations from the office, and determines not to amend or rescind the rule, the agency shall prepare a memorandum of response that explains why the rule is not being rescinded or why the recommendations are not being incorporated into the rule.

(B) The agency shall assign a new review date to the rule. The review date assigned shall be not later than five years after the immediately preceding review date pertaining to the rule. If the agency assigns a review date that exceeds the five-year maximum, the review date is five years after the immediately preceding review date.

(C)(1) The agency shall file all the following, in electronic form, with the joint committee on agency rule review, the secretary of state, and the director of the legislative service commission: a copy of the rule specifying its new review date, a complete and accurate rule summary and fiscal analysis, and, if relevant, a business impact analysis of the rule, any comments received from the common sense initiative office, and any memorandum of response. An agency may comply with the requirement to file a complete and accurate rule summary and fiscal analysis by filing a previously prepared rule summary and fiscal analysis,

so long as the previous rule summary and fiscal analysis was complete and accurate at the time it was prepared, continues to be such a complete and accurate explanation of the rule, and the conditions described in division (B)(4), (5), (6), (8), (9), or (10) of section 127.18 of the Revised Code, as they relate to the rule, have not appreciably changed since the previous rule summary and fiscal analysis was prepared.

(2) The joint committee does not have jurisdiction to review, and shall reject, the filing of a rule under division (C)(1) of this section if, at any time while the rule is in its possession, it discovers that the rule has an adverse impact on businesses and the agency has not complied with division (A) of this section. The joint committee shall electronically return a rule that is rejected to the agency, together with any documents that were part of the filing. Such a rejection does not preclude the agency from refiling the rule under division (C)(1) of this section after complying with division (A) of this section. When the filing of a rule is rejected under this division, it is as if the filing had not been made.

(D) The joint committee shall publish notice of the agency's determination not to amend or rescind the rule in the register of Ohio for four consecutive weeks after the rule is filed under division (C)(1) of this section.

(E) During the ninety-day period after a rule is filed under division (C)(1) of this section, but after the four-week notice period required by division (D) of this section has ended, the joint committee, by a two-thirds vote of members present, may recommend adoption of a concurrent resolution invalidating the rule if the joint committee finds any of the following:

(1) The agency improperly applied the standards in division (C) of section 119.032 of the Revised Code in reviewing the rule and in determining that the rule did not need amendment or

rescission.

(2) The rule has an adverse impact on businesses, and the agency has failed to demonstrate through a business impact analysis, recommendations from the common sense initiative office, and a memorandum of response that the regulatory intent of the rule justifies its adverse impact on businesses.

(3) If the rule incorporates a text or other material by reference, the agency failed to file, or to deposit or display, the text or other material incorporated by reference as required by section 121.73 or 121.74 of the Revised Code or the incorporation by reference fails to meet the standards stated in section 121.72, 121.75, or 121.76 of the Revised Code.

(4) The agency failed to make a proper filing under division (C)(1) of this section.

If the joint committee does not take any of these actions during the prescribed time, the rule continues in effect without amendment and shall be next reviewed by the joint committee with reference to the new review date assigned by the agency.

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

In the department of commerce:

Commissioner of securities;

Superintendent of real estate and professional licensing;

Superintendent of financial institutions;

State fire marshal;

Superintendent of ~~labor~~ industrial compliance;

Superintendent of liquor control;

Superintendent of unclaimed funds.

In the department of administrative services:

~~State architect and engineer;~~

Equal employment opportunity coordinator.

In the department of agriculture:

Chiefs of divisions as follows:

Administration;

Animal health;

Livestock environmental permitting;

Dairy;

Food safety;

Plant health;

Markets;

Meat inspection;

Consumer protection laboratory;

Amusement ride safety;

Enforcement;

Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

Mineral resources management;

Oil and gas resources management;

Forestry;

Natural areas and preserves;

Wildlife;

Geological survey;

Parks and recreation;

Watercraft;

~~Recycling and litter prevention;~~

Soil and water resources;

Engineering.

In the department of insurance:

Deputy superintendent of insurance;

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

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

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

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

powers and duties shall be construed as vested in the division of financial institutions. The division of financial institutions shall be administered by the superintendent of financial institutions.

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

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

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

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

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

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

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

superintendent of ~~labor~~ industrial compliance.

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

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

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

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

The department or division may require any person about whom a criminal records check is requested to pay to the department or division the amount necessary to cover the fee charged to the department or division by the bureau of criminal identification and investigation under division (C)(3) of section 109.572 of the

Revised Code, including, when applicable, any fee for a criminal records check conducted by the federal bureau of investigation.

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

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

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

(C) Collect and collate statistics as are necessary.

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

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

(F) Oversee a chief of construction and compliance, a chief of operations and maintenance, a chief of licensing and certification, a chief of worker protection, and other designees

appointed by the director to perform the duties described in this section.

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

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

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

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

Sec. 121.35. (A) Subject to division (B) of this section, the following state agencies shall collaborate to revise and make more uniform the eligibility standards and eligibility determination

procedures of programs the state agencies administer:

(1) The department of aging;

(2) The department of alcohol and drug addiction services;

(3) The department of development;

(4) The department of developmental disabilities;

(5) The department of education;

(6) The department of health;

(7) The department of job and family services;

(8) The department of mental health;

(9) The rehabilitation services commission.

(B) In revising eligibility standards and eligibility determination procedures, a state agency shall not make any program's eligibility standards or eligibility determination procedures inconsistent with state or federal law. To the extent authorized by state and federal law, the revisions may provide for the state agencies to share administrative operations.

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

(1) ~~To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or~~

~~public buildings is a statutory duty of the department. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.~~

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

~~(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions and except contracts for the construction of projects that do not require the issuance of a building permit or the issuance of a certificate of occupancy and that are necessary to remediate conditions at a hazardous waste facility, solid waste facility, or other location at which the director of environmental protection has reason to believe there is a substantial threat to public health or safety or the environment. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, the boards of trustees of such institutions, and the director of environmental protection, respectively. All such contracts may be in whole or in part on**

~~unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.~~

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

~~(5)~~(2) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;

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

~~(7)~~(3) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

~~(8)~~(4) To procure, by lease, storage accommodations for a state agency;

~~(9)~~(5) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses ~~shall~~ may be granted to any person or entity, shall be for a period not to exceed fifteen years, and shall be executed for the state by the director of administrative services ~~and the governor and shall be approved as to form by the attorney general, provided that leases, easements, or licenses may be granted to any county, township, municipal corporation, port authority, water or sewer district, school district, library district, health district, park district, soil and water conservation district, conservancy district, or other political subdivision or taxing district, or any agency of~~

~~the United States government, for the exclusive use of that agency, political subdivision, or taxing district, without any right of sublease or assignment, for a period not to exceed fifteen years, and,~~ provided that the director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant to section ~~123.77~~ 123.17 of the Revised Code.

~~(10)~~(6) To lease space for the use of a state agency;

~~(11)~~(7) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency;

~~(12)~~(8) To exercise general custodial care of all real property of the state;

~~(13)~~(9) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use;

~~(14)~~(10) To lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.

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

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

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

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

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

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

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

builder shall comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified thereon. Within thirty days after the day on which the bids are received, the department shall investigate the bids received and shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids, the department shall award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building,

structure, or improvement. The department shall adopt such rules as are necessary to give effect to this section. The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

~~(15)~~(11) To acquire by purchase, gift, devise, or grant and to transfer, lease, or otherwise dispose of all real property required to assist in the development of a conversion facility as defined in section 5709.30 of the Revised Code as that section existed before its repeal by Amended Substitute House Bill 95 of the 125th general assembly;

~~(16)~~(12) To lease for a period not to exceed forty years, notwithstanding any other division of this section, the state-owned property located at 408-450 East Town Street, Columbus, Ohio, formerly the state school for the deaf, to a developer in accordance with this section. "Developer," as used in this section, has the same meaning as in section 123.77 of the Revised Code.

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

The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and

other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following:

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

(b) The development plans are satisfactory;

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

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

~~(17)~~(13) To manage the use of space owned and controlled by the department, including space in property under the jurisdiction of the Ohio building authority, by doing all of the following:

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

(b) Periodically in the discretion of the director of administrative services:

(i) Requiring each state agency to categorize the use of space allotted to the agency between office space, common areas,

storage space, and other uses, and to report its findings to the department;

(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.

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

(14) To adopt rules to ensure that energy efficiency and conservation is considered in the purchase of products and equipment, except motor vehicles, by any state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution. The department may require minimum energy efficiency standards for purchased products and equipment based on federal testing and labeling if available or on standards developed by the department. When possible, the rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code.

(15) To ensure energy efficient and energy conserving purchasing practices by doing all of the following:

(a) Identifying available energy efficiency and conservation opportunities;

(b) Providing for interchange of information among purchasing agencies;

(c) Identifying laws, policies, rules, and procedures that should be modified;

(d) Monitoring experience with and the cost-effectiveness of this state's purchase and use of motor vehicles and of major energy-consuming systems, components, equipment, and products having a significant impact on energy consumption by the government;

(e) Providing technical assistance and training to state employees involved in the purchasing process;

(f) Working with the department of development to make recommendations regarding planning and implementation of purchasing policies and procedures that are supportive of energy efficiency and conservation.

(16) To require all state agencies, departments, divisions, bureaus, offices, units, commissions, boards, authorities, quasi-governmental entities, institutions, and state institutions of higher education to implement procedures to ensure that all of the passenger automobiles they acquire in each fiscal year, except for those passenger automobiles acquired for use in law enforcement or emergency rescue work, achieve a fleet average fuel economy of not less than the fleet average fuel economy for that fiscal year as the department shall prescribe by rule. The department shall adopt the rule prior to the beginning of the fiscal year, in accordance with the average fuel economy standards established by federal law for passenger automobiles manufactured during the model year that begins during the fiscal year.

Each state agency, department, division, bureau, office, unit, commission, board, authority, quasi-governmental entity, institution, and state institution of higher education shall determine its fleet average fuel economy by dividing the total number of passenger vehicles acquired during the fiscal year,

except for those passenger vehicles acquired for use in law enforcement or emergency rescue work, by a sum of terms, each of which is a fraction created by dividing the number of passenger vehicles of a given make, model, and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year by the fuel economy measured by the administrator of the United States environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.

As used in division (A)(16) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.

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

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

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

(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and

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

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

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

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the rehabilitation services commission, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health, developmental disabilities, and rehabilitation and correction; buildings of educational and benevolent institutions under the management and control of boards of trustees; and purchases or leases for, and the custody and

repair of, office space used for the purposes of the joint legislative ethics committee are not subject to the control and jurisdiction of the department of administrative services.

If the joint legislative ethics committee so requests, the committee and the director of administrative services may enter into a contract under which the department of administrative services agrees to perform any services requested by the committee that the department is authorized under this section to perform.

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

Sec. ~~123.04~~ 123.02. The director of administrative services shall be appointed superintendent of public works and shall have the care and control of the public works of the state and shall protect, maintain, and keep them in repair.

Subject to the approval of the governor, the director may purchase on behalf of the state such real or personal property, rights, or privileges as are necessary, in the director's judgment, to acquire in the maintenance of the public works or their improvement.

Any instrument by which the state or an agency of the state acquires real property pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. ~~123.07~~ 123.03. The director of administrative services may maintain an action in the name of the state for violations of any law relating to the public works for an injury to property pertaining to the public works, or for any other cause which is necessary in the performance of ~~his~~ the director's duties.

Sec. ~~123.09~~ 123.04. The director of administrative services shall have supervision of the public works of the state and shall make such rules and regulations for the ~~improvement,~~ maintenance~~,~~ and operation of the public works as are necessary.

Sec. ~~123.10~~ 123.05. ~~(A)~~ The director of administrative services shall regulate the rate of tolls to be collected on the public works of the state, and shall fix all rentals and collect all tolls, rents, fines, commissions, fees, and other revenues arising from any source in the public works, including the sale, ~~construction,~~ purchase, or rental of property, except that the director shall not collect a commission or fee from a real estate broker or the private owner when real property is leased or rented to the state.

~~(B) There is hereby created in the state treasury the state architect's fund which shall consist of money received by the department of administrative services under division (A) of this section, fees paid under section 123.17 of the Revised Code, transfers of money to the fund authorized by the general assembly, and such amount of the investment earnings of the administrative building fund created in division (F) of section 154.24 of the Revised Code as the director of budget and management determines to be appropriate and in excess of the amounts required to meet estimated federal arbitrage rebate requirements. Money in the fund shall be used by the department of administrative services for the following purposes:~~

~~(1) To pay personnel and other administrative expenses of the department;~~

~~(2) To pay the cost of conducting evaluations of public works;~~

~~(3) To pay the cost of building design specifications;~~

~~(4) To pay the cost of providing project management services;~~

~~(5) To pay the cost of operating the local administration competency certification program prescribed by section 123.17 of the Revised Code;~~

~~(6) Any other purposes that the director of administrative services determines to be necessary for the department to execute its duties under this chapter.~~

Sec. ~~123.024~~ 123.06. (A) The department of administrative services shall assign and make available, at state expense, suitable office space in state-owned facilities to accommodate the office operations of the state headquarters of both of the following:

(1) All veterans organizations in this state that either are incorporated and issued a charter by the congress of the United States or are recognized by the United States department of veterans affairs;

(2) The auxiliary organizations of veterans organizations described in division (A)(1) of this section.

(B) The department may situate office space for each auxiliary organization of a veterans organization with or near the office space of that veterans organization.

Sec. ~~123.11~~ 123.07. Each state agency and any county, township, or municipal corporation owning, leasing, or controlling the operation of parking spaces for use by its employees may provide preferential parking for those vehicles used in carpools, vanpools, and buspools. The department of administrative services shall coordinate the efforts of the state agencies in providing preferential parking for such vehicles.

Sec. ~~123.13~~ 123.08. The director of administrative services

shall appoint such ~~foreman~~ forepersons, ~~patrolmen~~ patrol officers, lock tenders, inspectors, engineers, and all other employees as are necessary for the ~~improvement,~~ maintenance~~,~~ and operation of the public works. They shall be assigned to duty under the supervision of the director, under rules and regulations prescribed by ~~him~~ the director. Any such employee, when deemed necessary by the director, shall give proper bond to the state, conditioned for the faithful performance of ~~his~~ the employee's duties. Such bonds may, in the discretion of the director, be individual, schedule, or blanket bonds.

Sec. ~~123.14~~ 123.09. All claims against the state for the ~~improvement,~~ repair, maintenance, and operation of the public works of Ohio, including salary and expenses of all employees engaged in such work, shall be paid upon the order of the director of administrative services.

Sec. ~~123.15~~ 123.10. (A) As used in this section and section ~~123.21~~ 123.11 of the Revised Code, "public exigency" means an injury or obstruction that occurs in any public works of the state maintained by the director of administrative services and that materially impairs its immediate use or places in jeopardy property adjacent to it; an immediate danger of such an injury or obstruction; or an injury or obstruction, or an immediate danger of an injury or obstruction, that occurs ~~during the process of construction of~~ in any public works of the state maintained by the director of administrative services and that materially impairs its immediate use or places in jeopardy property adjacent to it.

(B) ~~The~~ When a declaration of public exigency is issued pursuant to division (C) of this section, the director of administrative services may request the Ohio facilities construction commission to enter into contracts with proper persons for the performance of labor, the furnishing of materials,

or the construction of any structures and buildings necessary to the maintenance, control, and management of the public works of the state or any part of those public works. ~~Except as provided in division (C) of this section for public exigencies, the director shall advertise, award, and administer those~~ Any contracts ~~in accordance with the requirements~~ awarded for the work performed pursuant to the declaration of a public exigency may be awarded without competitive bidding or selection as set forth in Chapter 153. of the Revised Code.

(C) The director of administrative services may issue a declaration of a public exigency on the director's own initiative or upon the request of the director of any state agency. The director's declaration shall identify the specific injury, obstruction, or danger that is the subject of the declaration and shall set forth a dollar limitation for the repair, removal, or prevention of that exigency under the declaration.

Before any project to repair, remove, or prevent a public exigency under the director's declaration may begin, the director shall send notice of the project, in writing, to the director of budget and management and to the members of the controlling board. That notice shall detail the project to be undertaken to address the public exigency and shall include a copy of the director's declaration that establishes the monetary limitations on that project.

Sec. ~~123.21~~ 123.11. When a public exigency, as defined in division (A) of section ~~123.15~~ 123.10 of the Revised Code, exists, the director of administrative services may take possession of lands and use them, or materials and other property necessary for the maintenance, protection, or repair of the public works, in accordance with sections 163.01 to 163.22 of the Revised Code.

Sec. ~~123.46~~ 123.12. No land lease or sale of state lands shall be made by the director of administrative services except upon the written approval of the governor and the attorney general.

Sec. ~~123.47~~ 123.13. Except as otherwise provided by law, the director of administrative services shall have the custody and control of the books, records, papers, surveys, maps, plats, and documents that pertain to any of the public works of this state.

Sec. ~~123.48~~ 123.14. The director of administrative services shall make an annual report to the governor containing a statement of the expenses of the public works under ~~his~~ the director's supervision during the preceding year, setting forth an account of moneys expended on each of the public works during the year, and such other information and records as ~~he~~ the director deems proper. Such report shall contain a statement of the moneys received from all sources and an estimate of the appropriations necessary to maintain the public works and keep them in repair. The report shall also contain a list of all persons regularly employed, together with the salary, compensation, or allowance paid each.

~~He~~ The director shall further from time to time when ~~he~~ the director deems it necessary, or when called upon by the governor, to do so, make such other reports as are proper, touching on the general condition and welfare of the public works and the drainage, leaseholds, and water powers incident thereto.

Sec. ~~123.49~~ 123.15. The department of administrative services may adopt, amend, and rescind rules pertaining to lands under the supervision of the department in accordance with Chapter 119. of the Revised Code.

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

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

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

(2) Except as provided in division (B)(14) of this section, establish agency procurement goals for contracting with EDGE business enterprises in the award of contracts under Chapters 123., 125., and 153. of the Revised Code based on the availability of eligible program participants by region or geographic area, as determined by the director, and by standard industrial code or equivalent code classification.

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

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

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

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

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

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

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

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

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

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

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

(6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to

participate in the procurement of professional design and information technology services;

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

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

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

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

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

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

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

(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio ~~school~~ facilities <u>construction</u> commission created in section ~~3318.30~~ <u>123.20</u> of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals

for contracting with EDGE business enterprises.

(C) Business and personal financial information and trade secrets submitted by encouraging diversity, growth, and equity program applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.

Sec. ~~123.77~~ 123.17. The department of administrative services may lease land belonging to or under the control or jurisdiction of a state university, not required nor to be required for use of the university, to a developer in accordance with this section. "Developer," as used in this section, means a person, partnership, association, corporation, or community improvement corporation established pursuant to Chapter 1724. of the Revised Code who or which submits a development plan to the department as provided in this section and requests the department to enter into a lease.

Such a lease of university land shall be for the purpose of development of the land by establishing, constructing, altering, repairing, expanding, and improving industrial, distribution, commercial, or research facilities. A developer desiring to lease land of the university for such development shall prepare and submit to the department of administrative services and to the board of trustees of the university a plan for such development. Plans shall include provisions for roads, streets, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise and plans for financing the development, and shall set forth details of the developer's financial responsibility.

The department of administrative services may employ as employees or consultants, persons needed to assist it in reviewing the development plans. Such persons may include attorneys, financial experts, engineers, and other necessary experts. The department of administrative services shall review the development plans and may enter into a lease if it finds that:

(A) The best interests of the university will be promoted by entering into a lease with the developer.

(B) The development plans are satisfactory.

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

(D) The university board of trustees approves the lease.

A lease may be entered into pursuant to this section for an annual rent agreed to between the department and the developer for a maximum term of forty years and may be renewed for a like or lesser term. The lease shall contain a provision that construction of buildings, structures, roads, and other necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. Moneys received by the state pursuant to such leases shall be paid into the state treasury as an addition to the appropriation made to the university which has control or jurisdiction of the land or to which the land belongs.

Sec. ~~123.08~~ 123.18. The director of administrative services may administer oaths to persons required by law to file affidavits or statements in the department of administrative services and to witnesses who are examined in matters pertaining to the administration of the public works.

Sec. 123.20. (A) There is hereby created the Ohio facilities construction commission. The commission shall administer the design and construction of improvements to public facilities of the state in accordance with this chapter and other provisions of the Revised Code.

The commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers are essential public functions and public purposes of the state. The commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by the Revised Code, but it does not have and shall not exercise the power of eminent domain. In its discretion and as it determines appropriate, the commission may delegate to any of its members, executive director, or other employees any of the commission's powers and duties to carry out its functions.

(B) The commission shall consist of three members: the director of the office of budget and management and the director of administrative services, or their designees, and a member whom the governor shall appoint.

Members of the commission shall serve without compensation.

Within sixty days after the effective date of this section, the commission shall meet and organize by electing voting members as the chairperson and vice-chairperson of the commission, who shall hold their offices until the next organizational meeting of the commission. Organizational meetings of the commission shall be held at the first meeting of each calendar year. At each organizational meeting, the commission shall elect from among its voting members a chairperson and vice-chairperson, who shall serve until the next annual organizational meeting. The commission shall

adopt rules pursuant to Chapter 119. of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings. Including the organizational meeting, the commission shall meet at least once each calendar year.

Two members of the commission constitute a quorum, and the affirmative vote of two members is necessary for approval of any action taken by the commission. A vacancy in the membership of the commission does not impair a quorum from exercising all the rights and performing all the duties of the commission. Meetings of the commission may be held anywhere in the state and shall be held in compliance with section 121.22 of the Revised Code.

(C) Within sixty days after the effective date of this section, the governor shall appoint a member to the commission. The initial appointment shall be for a term ending three years after the effective date of this section, with subsequent terms ending three years after they begin, on the same day of the same month as the initial term.

A vacancy for the member appointed by the governor shall be filled in the same manner as provided for the original appointment. The appointed member shall hold office for the remainder of the term for which the vacancy existed. After the expiration of the term, the appointed member shall continue in office for a period of sixty days or until the appointed member's successor takes office, whichever period is shorter.

(D) The commission shall file an annual report of its activities and finances with the governor, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees.

(E) The commission shall be exempt from the requirements of sections 101.82 to 101.87 of the Revised Code.

Sec. 123.201. There is hereby created in the state treasury the Ohio facilities construction commission fund, consisting of transfers of moneys authorized by the general assembly and revenues received by the Ohio facilities construction commission under section 123.21 of the Revised Code. Investment earnings on moneys in the fund shall be credited to the fund. Moneys in the fund may be used by the commission, in performing its duties under this chapter, to pay personnel and other administrative expenses, to pay the cost of preparing building design specifications, to pay the cost of providing project management services, and for other purposes determined by the commission to be necessary to fulfill its duties under this chapter.

Sec. 123.21. (A) The Ohio facilities construction commission may perform any act and ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under this chapter or any other provision of the Revised Code, including any of the following:

(1) Prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or public buildings is a statutory duty of the commission. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which section 153.01 of the Revised Code applies. This section does not affect or alter the existing powers of the director of transportation, the director of public safety, or the superintendent of the state highway patrol.

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

(3) Make contracts for and supervise the design and construction of any projects and improvements or the construction and repair of buildings under the control of a state agency. All such contracts may be based in whole or in part on the unit price or maximum estimated cost, with payment computed and made upon actual quantities or units.

(4) Adopt, amend, and rescind rules pertaining to the administration of the construction of the public works of the state as required by law, in accordance with Chapter 119. of the Revised Code.

(5) Contract with, retain the services of, or designate, and fix the compensation of, such agents, accountants, consultants, advisers, and other independent contractors as may be necessary or desirable to carry out the programs authorized under this chapter, or authorize the executive director to perform such powers and duties.

(6) Receive and accept any gifts, grants, donations, and pledges, and receipts therefrom, to be used for the programs authorized under this chapter.

(7) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under this chapter, or authorize the executive director to perform such powers and duties.

(8) Debar a contractor as provided in section 153.02 of the Revised Code.

(B) The commission shall appoint and fix the compensation of

an executive director who shall serve at the pleasure of the commission. The executive director shall exercise all powers that the commission possesses, supervise the operations of the commission, and perform such other duties as delegated by the commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the commission, who shall serve at the pleasure of the executive director. The employees of the commission are exempt from Chapter 4117. of the Revised Code and are not considered public employees as defined in section 4117.01 of the Revised Code. Any agreement entered into prior to July 1, 2012, between the office of collective bargaining and the exclusive representative for employees of the commission is binding and shall continue to have effect.

(C) The attorney general shall serve as the legal representative for the commission and may appoint other counsel as necessary for that purpose in accordance with section 109.07 of the Revised Code.

Sec. ~~123.011~~ 123.22. (A) As used in this section:

(1) "Construct" includes reconstruct, improve, renovate, enlarge, or otherwise alter.

(2) "Energy consumption analysis" means the evaluation of all energy consuming systems, components, and equipment by demand and type of energy, including the internal energy load imposed on a facility by its occupants and the external energy load imposed by climatic conditions.

(3) "Energy performance index" means a number describing the energy requirements of a facility per square foot of floor space or per cubic foot of occupied volume as appropriate under defined internal and external ambient conditions over an entire seasonal cycle.

(4) "Facility" means a building or other structure, or part of a building or other structure, that includes provision for a heating, refrigeration, ventilation, cooling, lighting, hot water, or other major energy consuming system, component, or equipment.

(5) "Life-cycle cost analysis" means a general approach to economic evaluation that takes into account all dollar costs related to owning, operating, maintaining, and ultimately disposing of a project over the appropriate study period.

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

(7) "State funded" means funded in whole or in part through appropriation by the general assembly or through the use of any guarantee provided by this state.

(8) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) ~~There is hereby created within the department of administrative services the office of energy services. The office shall be under the supervision of a manager, who shall be appointed by the director of administrative services. The director shall assign to the office such number of employees and furnish such equipment and supplies as are necessary for the performance of the office's duties.~~

The ~~office~~ Ohio facilities construction commission shall develop energy efficiency and conservation programs ~~in each of the following areas:~~

~~(1) New~~ for new construction design and review~~;~~

~~(2) Existing~~ and for existing building audit and retrofit~~;~~

~~(3) Energy efficient procurement;~~

~~(4) Alternative fuel vehicles~~.

The ~~office~~ commission may accept and administer grants from public and private sources for carrying out any of its duties under this section.

(C) No state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution~~, including those agencies otherwise excluded from the jurisdiction of the department under division (A)(3) of section 123.01 of the Revised Code,~~ shall lease, construct, or cause to be leased or constructed, within the limits prescribed in this section, a state-funded facility, without a proper life-cycle cost analysis or, in the case of a lease, an energy consumption analysis, as computed or prepared by a qualified architect or engineer in accordance with the rules required by division (D) of this section.

Construction shall proceed only upon the disclosure to the office, for the facility chosen, of the life-cycle costs as determined in this section and the capitalization of the initial construction costs of the building. The results of life-cycle cost analysis shall be a primary consideration in the selection of a building design. That analysis shall be required only for construction of buildings with an area of five thousand square feet or greater. An energy consumption analysis for the term of a proposed lease shall be required only for the leasing of an area of twenty thousand square feet or greater within a given building boundary. That analysis shall be a primary consideration in the selection of a facility to be leased.

Nothing in this section shall deprive or limit any state agency that has review authority over design, construction, or leasing plans from requiring a life-cycle cost analysis or energy

consumption analysis.

(D) For the purposes of assisting the ~~department~~ commission in its responsibility for state-funded facilities pursuant to section ~~123.01~~ 123.21 of the Revised Code and of cost-effectively reducing the energy consumption of those and any other state-funded facilities, thereby promoting fiscal, economic, and environmental benefits to this state, the ~~office~~ commission shall promulgate rules specifying cost-effective, energy efficiency and conservation standards that may govern the lease, design, construction, operation, and maintenance of all state-funded facilities, except facilities of state institutions of higher education or facilities operated by a political subdivision. The office of energy efficiency in the department of development shall cooperate in providing information and technical expertise to the office of energy services to ensure promulgation of rules of maximum effectiveness. The standards prescribed by rules promulgated under this division may draw from or incorporate, by reference or otherwise and in whole or in part, standards already developed or implemented by any competent, public or private standards organization or program. The rules also may include any of the following:

(1) Specifications for a life-cycle cost analysis that shall determine, for the economic life of such state-funded facility, the reasonably expected costs of facility ownership, operation, and maintenance including labor and materials. Life-cycle cost may be expressed as an annual cost for each year of the facility's use.

A life-cycle cost analysis additionally may include an energy consumption analysis that conforms to division (D)(2) of this section.

(2) Specifications for an energy consumption analysis of the facility's heating, refrigeration, ventilation, cooling, lighting,

hot water, and other major energy consuming systems, components, and equipment.

A life-cycle cost analysis and energy consumption analysis shall be based on the best currently available methods of analysis, such as those of the national institute of standards and technology, the United States department of energy or other federal agencies, professional societies, and directions developed by the department.

(3) Specifications for energy performance indices, to be used to audit and evaluate competing design proposals submitted to the state.

(4) A requirement that, not later than two years after April 6, 2007, each state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, is managed by at least one building operator certified under the building operator certification program or any equivalent program or standards as shall be prescribed in the rules and considered reasonably equivalent.

(5) An application process by which a manager of a specified state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, may apply for a waiver of compliance with any provision of the rules required by divisions (D)(1) to (4) of this section.

~~(E) The office of energy services shall promulgate rules to ensure that energy efficiency and conservation will be considered in the purchase of products and equipment, except motor vehicles, by any state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution. Minimum energy efficiency standards for purchased products and equipment may be required, based on federal testing~~

~~and labeling where available or on standards developed by the office. The rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code where possible.~~

~~The office also shall ensure energy efficient and energy conserving purchasing practices by doing all of the following:~~

~~(1) Cooperatively with the office of energy efficiency, identifying available energy efficiency and conservation opportunities;~~

~~(2) Providing for interchange of information among purchasing agencies;~~

~~(3) Identifying laws, policies, rules, and procedures that need modification;~~

~~(4) Monitoring experience with and the cost-effectiveness of this state's purchase and use of motor vehicles and of major energy-consuming systems, components, equipment, and products having a significant impact on energy consumption by government;~~

~~(5) Cooperatively with the office of energy efficiency, providing technical assistance and training to state employees involved in the purchasing process.~~

~~The department of development shall make recommendations to the office regarding planning and implementation of purchasing policies and procedures supportive of energy efficiency and conservation.~~

~~(F)(1) The office of energy services shall require all state agencies, departments, divisions, bureaus, offices, units, commissions, boards, authorities, quasi-governmental entities, institutions, and state institutions of higher education to implement procedures ensuring that all their passenger automobiles acquired in each fiscal year, except for those passenger~~

~~automobiles acquired for use in law enforcement or emergency rescue work, achieve a fleet average fuel economy of not less than the fleet average fuel economy for that fiscal year as shall be prescribed by the office by rule. The office shall promulgate the rule prior to the beginning of the fiscal year in accordance with the average fuel economy standards established pursuant to federal law for passenger automobiles manufactured during the model year that begins during the fiscal year.~~

~~(2) Each state agency, department, division, bureau, office, unit, commission, board, authority, quasi-governmental entity, institution, and state institution of higher education shall determine its fleet average fuel economy by dividing:~~

~~(a) The total number of passenger vehicles acquired during the fiscal year, except for those passenger vehicles acquired for use in law enforcement or emergency rescue work, by~~

~~(b) A sum of terms, each of which is a fraction created by dividing:~~

~~(i) The number of passenger vehicles of a given make, model, and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year, by~~

~~(ii) The fuel economy measured by the administrator of the United States environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.~~

~~As used in division (F)(2) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.~~

~~(G)~~(E) Each state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, institution, and state institution of higher education

shall comply with any applicable provision of this section or of a rule promulgated pursuant to division (D) ~~or (F)~~ of this section.

Sec. 123.23. (A) As used in this section, "public exigency" means an injury or obstruction that occurs in any public works of the state that materially impairs its immediate use or places in jeopardy property adjacent to it; an immediate danger of such an injury or obstruction; or an injury or obstruction, or an immediate danger of an injury or obstruction, that occurs during the process of construction of any public works and that materially impairs its immediate use or places in jeopardy property adjacent to it.

(B) When a declaration of a public exigency is issued pursuant to division (C) of this section, the executive director of the Ohio facilities construction commission may enter into contracts with proper persons for the performance of labor, the furnishing of materials, or the construction of any structures and buildings necessary to the maintenance, control, and management of the public works of the state or any part of those public works. Any contracts awarded for the work performed pursuant to the declaration of a public exigency may be awarded without competitive bidding or selection as otherwise required by Chapter 153. of the Revised Code.

(C) The executive director of the commission may issue a declaration of a public exigency on the executive director's own initiative, or upon the request of the director of any state agency, university, or instrumentality. The executive director's declaration shall identify the specific injury, obstruction, or danger that is the subject of the declaration and shall set forth a dollar limitation for the repair, removal, or prevention of that exigency under the declaration.

Before any project to repair, remove, or prevent a public

exigency under the executive director's declaration may begin, the executive director shall send notice of the project, in writing, to the director of budget and management and to the members of the controlling board. The notice shall detail the project to be undertaken to address the public exigency and shall include a copy of the director's declaration that establishes the monetary limitations on that project.

Sec. ~~123.17~~ 123.24. (A) As used in this section, "institution of higher education" means a state university or college, as defined in section 3345.12 of the Revised Code, or a state community college.

(B) ~~Not later than December 30, 2005, the state architect~~ The Ohio facilities construction commission shall establish a local administration competency certification program to certify institutions of higher education to administer capital facilities projects pursuant to section 3345.51 of the Revised Code without the supervision, control, or approval of the ~~department of administrative services~~ commission. The program shall offer instruction in the administration of capital facilities projects for employees of institutions of higher education who are responsible for such administration and who are selected by their employing institutions to participate in the program.

(C) The program shall provide instruction about the provisions of Chapters 9., 123., and 153. of the Revised Code and any rules or policies adopted by the ~~department~~ commission regarding the planning, design, and construction of capital facilities, including all of the following:

(1) The planning, design, and construction process;

(2) Contract requirements;

(3) Construction management;

(4) Project management.

(D) The ~~state architect~~ commission shall award local administration competency certification to any institution of higher education if all of the following apply:

(1) The institution applied for certification on a form and in a manner prescribed by the ~~state architect~~ commission.

(2) The ~~state architect~~ commission determines that a sufficient number of the institution's employees, representing a sufficient number of employee classifications, responsible for the administration of capital facilities projects have successfully completed the certification program to ensure that any capital facilities project undertaken by the institution will be administered successfully and in accordance with all provisions of the Revised Code, and the board of trustees of the institution provides written assurance to the ~~state architect~~ commission that the institution will select new employees to participate in the certification program as necessary to compensate for employee turnover.

(3) The ~~state architect~~ commission determines that the employees of the institution enrolled in the program demonstrate successful completion of the competency certification training and a satisfactory level of knowledge of and competency in the requirements for administering capital facilities projects.

(4) The institution pays the fee prescribed by division (F) of this section.

(5) The board of trustees of the institution provides written assurance to the ~~state architect~~ commission that the institution will conduct biennial audits of the institution's administration of capital facilities projects in accordance with division (C) of section 3345.51 of the Revised Code.

(6) The board of trustees of the institution agrees in

writing to indemnify and hold harmless the state and the ~~department~~ commission for any claim of injury, loss, or damage that results from the institution's administration of a capital facilities project.

(E) Local administration competency certification granted under this section shall remain in effect for as long as the ~~state architect~~ commission determines that both of the following apply:

(1) The institution of higher education maintains a sufficient number of employees responsible for the administration of capital facilities projects who have successfully completed the certification program and have demonstrated a satisfactory level of knowledge of and competency in the requirements for administering capital facilities projects;

(2) The institution is performing the biennial audits prescribed in division (C) of section 3345.51 of the Revised Code.

If the ~~state architect~~ commission determines that an institution of higher education has failed to comply with the conditions of division (E)(1) or (2) of this section, the ~~state architect~~ commission shall revoke the institution's certification and shall notify the board of trustees of the institution in writing of the revocation.

(F) The ~~state architect~~ commission shall establish, subject to the approval of the director of budget and management, the amount of the fee required to be paid by any institution of higher education that seeks certification under this section. The amount of the fees shall be set to cover the costs to implement this section, including the costs for materials and the competency certification training sessions. Any fees received under this section shall be paid into the state treasury to the credit of the ~~state architect's~~ commission's fund established under section ~~123.10~~ 123.201 of the Revised Code.

(G) Nothing in this section shall prohibit an institution that administers a capital facilities project under section 3345.51 of the Revised Code from requesting guidance or other services from the ~~department of administrative services~~ commission.

Sec. 123.26. (A) The executive director of the Ohio facilities construction commission shall regulate the rate of tolls to be collected on the construction or improvement of the public works of the state, and shall fix all rentals and collect all tolls, rents, fines, commissions, fees, and other revenues arising from any source in the construction or improvement of the public works of the state.

(B) Deposits made to the commission's fund in the state treasury under section 123.201 of the Revised Code shall consist of money received by the commission under division (A) of this section, fees paid under section 123.24 of the Revised Code, transfers of money to the fund authorized by the general assembly, and such amount of the investment earnings of the administrative building fund created in division (F) of section 154.24 of the Revised Code as the director of budget and management determines to be appropriate and in excess of the amounts required to meet estimated federal arbitrage rebate requirements. Money in the fund shall be used by the commission for the following purposes:

(1) To pay personnel and other administrative expenses of the commission;

(2) To pay the cost of conducting evaluations of public works;

(3) To pay the cost of building design specifications;

(4) To pay the cost of providing project management services;

(5) To pay the cost of operating the local administration

competency certification program prescribed by section 123.24 of the Revised Code; and

(6) Any other purposes that the executive director of the commission determines to be necessary for the commission to execute its duties under this chapter.

Sec. ~~123.101~~ 123.27. (A) As used in this section:

"Capital facilities project" means the construction, reconstruction, improvement, enlargement, alteration, or repair of a building by a public entity.

"Public entity" includes a state agency and a state institution of higher education.

"State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) Commencing not later than July 1, 2012, and upon completion of a capital facilities project that is funded wholly or in part using state funds, each public entity shall submit a report about the project to the executive director of ~~administrative services~~ the Ohio facilities construction commission. The report shall be submitted in Ohio administrative knowledge system capital improvement format or in a manner determined by the executive director and not later than thirty days after the project is complete. The report shall provide the total original contract bid, total cost of change orders, total actual cost of the project, total costs incurred for mediation and litigation services, and any other data requested by the executive director. The first report submitted pursuant to this division shall include information about any capital facilities project completed on or after July 1, 2011. Any capital facilities project that is funded wholly or in part through appropriations made to the Ohio school facilities commission, the Ohio public works

commission, or the Ohio cultural facilities commission, or for which a joint use agreement has been entered into with any public entity, is exempt from the reporting requirement prescribed under this division.

(C) Commencing not later than July 1, 2012, and annually thereafter, the attorney general shall report to the executive director of the Ohio facilities construction commission on any mediation and litigation costs associated with capital facilities projects for which a judgment has been rendered. The report shall be submitted in a manner prescribed by the executive director and shall contain any information requested by the executive director related to capital facilities project mediation and litigation costs.

(D) As soon as practicable after such information is made available, the executive director of ~~administrative services~~ the Ohio facilities construction commission shall incorporate the information reported pursuant to divisions (B) and (C) of this section into the Ohio administrative knowledge system.

Sec. 124.04. In addition to those powers enumerated in Chapters 123. and 125. of the Revised Code and as provided elsewhere by law, the powers, duties, and functions of the department of administrative services not specifically vested in and assigned to, or to be performed by, the state personnel board of review are hereby vested in and assigned to, and shall be performed by, the director of administrative services. These powers, duties, and functions shall include, but shall not be limited to, the following powers, duties, and functions:

(A) To prepare, conduct, and grade all competitive examinations for positions in the classified ~~state~~ service of the state;

(B) To prepare, conduct, and grade all noncompetitive

examinations for positions in the classified ~~state~~ service of the state;

(C) To prepare eligible lists containing the names of persons qualified for appointment to positions in the classified ~~state~~ service of the state;

(D) To prepare or amend, in accordance with section 124.14 of the Revised Code, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the various classifications of positions in the ~~state~~ service of the state;

(E) To allocate and reallocate, upon the motion of the director or upon request of an appointing authority and in accordance with section 124.14 of the Revised Code, any position, office, or employment in the ~~state~~ service of the state to the appropriate classification on the basis of the duties, responsibilities, requirements, and qualifications of that position, office, or employment;

(F) To develop and conduct personnel recruitment services and assist appointing authorities in recruiting qualified applicants for positions in the ~~state~~ service of the state;

(G) To conduct research on specifications, classifications, and salaries of positions in the ~~state~~ service of the state;

(H) To develop and conduct personnel training programs, including supervisory training programs and best practices plans, and to develop merit hiring processes, in cooperation with appointing authorities for positions in the service of the state;

(I) To include periodically in communications sent to state employees both of the following:

(1) Information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts under

Chapter 2108. of the Revised Code;

(2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code.

(J) To enter into agreements with universities and colleges for in-service training of officers and employees in the civil service ~~and to assist appointing authorities in recruiting qualified applicants~~;

(K) To appoint examiners, inspectors, clerks, and other assistants necessary in the exercise of the powers and performance of the duties and functions which the director is by law authorized and required to exercise and perform, and to prescribe the duties of all of those employees;

(L) To maintain a journal, which shall be open to public inspection, in which the director shall keep a record of the director's final decision pertaining to the classification or reclassification of positions in the classified civil service of the state and assignment or reassignment of employees in the classified civil service of the state to specific position classifications;

(M) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any other state agency of this state as the director considers necessary;

(N) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any political subdivision with the concurrence of the legislative authority of the political subdivision.

(O) To administer a state equal employment opportunity program.

Sec. 124.06. No person shall be appointed, removed, transferred, laid off, suspended, reinstated, promoted, or reduced as an officer or employee in the civil service, in any manner or by any means other than those prescribed in this chapter, and the rules of the director of administrative services for positions in the service of the state or the municipal or civil service township civil service commission within their respective jurisdictions.

Sec. 124.11. The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts of the state shall be divided into the unclassified service and the classified service.

(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter:

(1) All officers elected by popular vote or persons appointed to fill vacancies in those offices;

(2) All election officers as defined in section 3501.01 of the Revised Code;

(3)(a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent;

(b) The heads of all departments appointed by a board of county commissioners;

(c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district;

Except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service.

(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors;

(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties;

(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;

(7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;

(b) The library staff of any library in the state supported wholly or in part at public expense.

(8) Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees;

(9) The deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department of job and family services created pursuant to Chapter 329. of the Revised Code.

(10) Bailiffs, constables, official stenographers, and commissioners of courts of record, deputies of clerks of the courts of common pleas who supervise or who handle public moneys or secured documents, and such officers and employees of courts of record and such deputies of clerks of the courts of common pleas as the ~~director of administrative services~~ appointing authority finds it impracticable to determine their fitness by competitive examination;

(11) Assistants to the attorney general, special counsel appointed or employed by the attorney general, assistants to county prosecuting attorneys, and assistants to city directors of law;

(12) Such teachers and employees in the agricultural experiment stations; such students in normal schools, colleges, and universities of the state who are employed by the state or a political subdivision of the state in student or intern classifications; and such unskilled labor positions as the director of administrative services, with respect to positions in

the service of the state, or any municipal civil service commission may find it impracticable to include in the competitive classified service; provided such exemptions shall be by order of the commission or the director, duly entered on the record of the commission or the director with the reasons for each such exemption;

(13) Any physician or dentist who is a full-time employee of the department of mental health, the department of developmental disabilities, or an institution under the jurisdiction of either department; and physicians who are in residency programs at the institutions;

(14) Up to twenty positions at each institution under the jurisdiction of the department of mental health or the department of developmental disabilities that the department director determines to be primarily administrative or managerial; and up to fifteen positions in any division of either department, excluding administrative assistants to the director and division chiefs, which are within the immediate staff of a division chief and which the director determines to be primarily and distinctively administrative and managerial;

(15) Noncitizens of the United States employed by the state, or its counties or cities, as physicians or nurses who are duly licensed to practice their respective professions under the laws of this state, or medical assistants, in mental or chronic disease hospitals, or institutions;

(16) Employees of the governor's office;

(17) Fire chiefs and chiefs of police in civil service townships appointed by boards of township trustees under section 505.38 or 505.49 of the Revised Code;

(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and

mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;

(19) Superintendents, and management employees as defined in section 5126.20 of the Revised Code, of county boards of developmental disabilities;

(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;

(21) The executive director of the state medical board, who is appointed pursuant to division (B) of section 4731.05 of the Revised Code;

(22) County directors of job and family services as provided in section 329.02 of the Revised Code and administrators appointed under section 329.021 of the Revised Code;

(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;

(24) Chiefs of construction and compliance, of operations and maintenance, of worker protection, and of licensing and certification in the division of ~~labor~~ industrial compliance in the department of commerce;

(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;

(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that

administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 44 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.

(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;

(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;

(29) Employees who receive intermittent or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications;

(32) Employees placed in the unclassified service by another section of the Revised Code.

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health

districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service commission, all positions in a civil service township police or fire department having ten or more full-time paid employees, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or employment shall be given in, all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided in this chapter, and the rules of the director of administrative services, by appointment from those certified to the appointing officer in accordance with this chapter.

(2) The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class for positions in service of the state shall be filled by appointment from lists of applicants registered by the director <u>or the director's designee</u>. Vacancies in the labor class for all other positions shall be filled by appointment from lists of applicants registered by a commission. The director or the commission, as applicable, by

rule, shall require an applicant for registration in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from that evidence or in those tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the director or commission, as applicable, shall certify from the highest on the list double the number to be employed; from this number, the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.

(C) A municipal or civil service township civil service commission may place volunteer firefighters who are paid on a fee-for-service basis in either the classified or the unclassified civil service.

(D)(1) This division does not apply to persons in the unclassified service who have the right to resume positions in the classified service under sections 4121.121, 5119.071, 5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised Code or to cities, counties, or political subdivisions of the state.

~~An appointing authority whose employees are paid directly by warrant of the director of budget and management may appoint a person who holds a certified position in the classified service within the appointing authority's agency to a position in the~~

~~unclassified service within that agency.~~ (2) A person ~~appointed pursuant to this division~~ who holds a position in the classified service of the safe and who is appointed to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service~~.~~ and:

(a) That person held a certified position prior to July 1, 2007, in the classified service within the appointing authority's agency; or

(b) That person held a permanent position on or after July 1, 2007, in the classified service within the appointing authority's agency.

(3) An employee forfeits the right to resume a position in the classified service when ~~the~~:

(a) The employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or the rules of the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony~~. An employee also forfeits the right to resume a position in the classified service upon~~; or

(b) Upon transfer to a different agency.

(4) Reinstatement to a position in the classified service

shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the appointing authority's agency that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in the unclassified service.

Sec. 124.12. (A) Within ninety days after an appointing authority appoints an employee to an unclassified position in the service of the state, the appointing authority shall notify the department of administrative services of that appointment.

(B) On the date an appointing authority appoints an employee to an unclassified position in the state service, the appointing authority shall provide the employee with written information describing the nature of employment in the unclassified civil service. Within thirty days after the date an appointing authority appoints an employee to an unclassified position in the state service, the appointing authority shall provide the employee with written information describing the duties of that position. Failure of the appointing authority to provide the written information described in this division to the employee does not confer any additional rights upon the employee in any appellate

body with jurisdiction over an appeal of the employee.

(C) The department shall develop and provide each appointing authority in the ~~state~~ service of the state with a general written description of the nature of employment in the unclassified civil service that shall be provided to employees under division (B) of this section.

Sec. 124.14. (A)(1) The director of administrative services shall establish, and may modify or rescind, by rule, a job classification plan for all positions, offices, and employments the salaries of which are paid in whole or in part by the state. The director shall group jobs within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The director shall, by rule, assign a classification title to each classification within the classification plan. However, the director shall consider in establishing classifications, including classifications with parenthetical titles, and assigning pay ranges such factors as duties performed only on one shift, special skills in short supply in the labor market, recruitment problems, separation rates, comparative salary rates, the amount of training required, and other conditions affecting employment. The director shall describe the duties and responsibilities of the class, establish the qualifications for being employed in each position in the class, and file with the secretary of state a copy of specifications for all of the classifications. The director shall file new, additional, or revised specifications with the secretary of state before they are used.

The director shall, by rule, assign each classification, either on a statewide basis or in particular counties or state institutions, to a pay range established under section 124.15 or

section 124.152 of the Revised Code. The director may assign a classification to a pay range on a temporary basis for a period of six months. The director may establish, by rule adopted under Chapter 119. of the Revised Code, experimental classification plans for some or all employees paid directly by warrant of the director of budget and management. The rule shall include specifications for each classification within the plan and shall specifically address compensation ranges, and methods for advancing within the ranges, for the classifications, which may be assigned to pay ranges other than the pay ranges established under section 124.15 or 124.152 of the Revised Code.

(2) The director of administrative services may reassign to a proper classification those positions that have been assigned to an improper classification. If the compensation of an employee in such a reassigned position exceeds the maximum rate of pay for the employee's new classification, the employee shall be placed in pay step X and shall not receive an increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

(3) The director may reassign an exempt employee, as defined in section 124.152 of the Revised Code, to a bargaining unit classification if the director determines that the bargaining unit classification is the proper classification for that employee. Notwithstanding Chapter 4117. of the Revised Code or instruments and contracts negotiated under it, these placements are at the director's discretion.

(4) The director shall, by rule, assign related classifications, which form a career progression, to a classification series. The director shall, by rule, assign each classification in the classification plan a five-digit number, the first four digits of which shall denote the classification series to which the classification is assigned. When a career progression

encompasses more than ten classifications, the director shall, by rule, identify the additional classifications belonging to a classification series. The additional classifications shall be part of the classification series, notwithstanding the fact that the first four digits of the number assigned to the additional classifications do not correspond to the first four digits of the numbers assigned to other classifications in the classification series.

~~(5) The director may establish, modify, or rescind a classification plan for county agencies that elect not to use the services and facilities of a county personnel department. The director shall establish any such classification plan by means of rules adopted under Chapter 119. of the Revised Code. The rules shall include a methodology for the establishment of titles unique to county agencies, the use of state classification titles and classification specifications for common positions, the criteria for a county to meet in establishing its own classification plan, and the establishment of what constitutes a classification series for county agencies. The director may assess a county agency that chooses to use the classification plan a usage fee the director determines. All usage fees the department of administrative services receives shall be paid into the state treasury to the credit of the human resources fund created in section 124.07 of the Revised Code.~~

(B) Division (A) of this section and sections 124.15 and 124.152 of the Revised Code do not apply to the following persons, positions, offices, and employments:

(1) Elected officials;

(2) Legislative employees, employees of the legislative service commission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary

of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court;

(3) ~~Employees of a county children services board that establishes compensation rates under section 5153.12 of the Revised Code;~~

~~(4)~~ Any position for which the authority to determine compensation is given by law to another individual or entity;

~~(5)~~(4) Employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code.

(C) The director may employ a consulting agency to aid and assist the director in carrying out this section.

(D)(1) When the director proposes to modify a classification or the assignment of classes to appropriate pay ranges, the director shall send written notice of the proposed rule to the appointing authorities of the affected employees thirty days before a hearing on the proposed rule. The appointing authorities shall notify the affected employees regarding the proposed rule. The director also shall send those appointing authorities notice of any final rule that is adopted within ten days after adoption.

(2) When the director proposes to reclassify any employee in the service of the state so that the employee is adversely affected, the director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range, and salary. Upon the request of any classified employee in the service of the state who is not serving in a probationary period, the director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The director shall give to the employee affected and to the

employee's appointing authority a written notice of the director's determination whether or not to reclassify the position or to reassign the employee to another classification. An employee or appointing authority desiring a hearing shall file a written request for the hearing with the state personnel board of review within thirty days after receiving the notice. The board shall set the matter for a hearing and notify the employee and appointing authority of the time and place of the hearing. The employee, the appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the board shall consider anew the reclassification and may order the reclassification of the employee and require the director to assign the employee to such appropriate classification as the facts and evidence warrant. As provided in division (A)(1) of section 124.03 of the Revised Code, the board may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit. The board shall disallow any reclassification or reassignment classification of any employee when it finds that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons.

(E)(1) Employees of each county department of job and family services shall be paid a salary or wage established by the board of county commissioners. The provisions of section 124.18 of the Revised Code concerning the standard work week apply to employees of county departments of job and family services. A board of county commissioners may do either of the following:

(a) Notwithstanding any other section of the Revised Code, supplement the sick leave, vacation leave, personal leave, and other benefits of any employee of the county department of job and family services of that county, if the employee is eligible for

the supplement under a written policy providing for the supplement;

(b) Notwithstanding any other section of the Revised Code, establish alternative schedules of sick leave, vacation leave, personal leave, or other benefits for employees not inconsistent with the provisions of a collective bargaining agreement covering the affected employees.

(2) Division (E)(1) of this section does not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code, except in either of the following situations:

(a) The employees for whom the state employment relations board establishes appropriate bargaining units elect no representative in a board-conducted representation election.

(b) After the state employment relations board establishes appropriate bargaining units for such employees, all employee organizations withdraw from a representation election.

(F)(1) Notwithstanding any contrary provision of sections 124.01 to 124.64 of the Revised Code, the board of trustees of each state university or college, as defined in section 3345.12 of the Revised Code, shall carry out all matters of governance involving the officers and employees of the university or college, including, but not limited to, the powers, duties, and functions of the department of administrative services and the director of administrative services specified in this chapter. Officers and employees of a state university or college shall have the right of appeal to the state personnel board of review as provided in this chapter.

(2) Each board of trustees shall adopt rules under section 111.15 of the Revised Code to carry out the matters of governance

described in division (F)(1) of this section. Until the board of trustees adopts those rules, a state university or college shall continue to operate pursuant to the applicable rules adopted by the director of administrative services under this chapter.

(G)(1) Each board of county commissioners may, by a resolution adopted by a majority of its members, establish a county personnel department to exercise the powers, duties, and functions specified in division (G) of this section. As used in division (G) of this section, "county personnel department" means a county personnel department established by a board of county commissioners under division (G)(1) of this section.

(2)(a) Each board of county commissioners, by a resolution adopted by a majority of its members, may designate the county personnel department of the county to exercise the powers, duties, and functions specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code with regard to employees in the service of the county, except for the powers and duties of the state personnel board of review, which powers and duties shall not be construed as having been modified or diminished in any manner by division (G)(2) of this section, with respect to the employees for whom the board of county commissioners is the appointing authority or co-appointing authority.

(b) Nothing in division (G)(2) of this section shall be construed to limit the right of any employee who possesses the right of appeal to the state personnel board of review to continue to possess that right of appeal.

(c) Any board of county commissioners that has established a county personnel department may contract with the department of administrative services, <u>in accordance with division (H) of this section,</u> another political subdivision, or an appropriate public or private entity to provide competitive testing services or other appropriate services.

(3) After the county personnel department of a county has been established as described in division (G)(2) of this section, any elected official, board, agency, or other appointing authority of that county, upon written notification to the county personnel department, may elect to use the services and facilities of the county personnel department. Upon receipt of the notification by the county personnel department, the county personnel department shall exercise the powers, duties, and functions as described in division (G)(2) of this section with respect to the employees of that elected official, board, agency, or other appointing authority.

(4) Each board of county commissioners, by a resolution adopted by a majority of its members, may disband the county personnel department.

(5) Any elected official, board, agency, or appointing authority of a county may end its involvement with a county personnel department upon actual receipt by the department of a certified copy of the notification that contains the decision to no longer participate.

(6) ~~The director of administrative services may, by rule adopted in accordance with Chapter 119. of the Revised Code, prescribe criteria and procedures for the following:~~

~~(a)~~ A ~~requirement that each~~ county personnel department, in carrying out its duties, shall adhere to merit system principles with regard to employees of county departments of job and family services, child support enforcement agencies, and public child welfare agencies so that there is no threatened loss of federal funding for these agencies, and ~~a requirement that~~ the county ~~be~~ is financially liable to the state for any loss of federal funds due to the action or inaction of the county personnel department. ~~The costs associated with audits conducted to monitor compliance with division (G)(6)(a) of this section shall be reimbursed to the~~

~~department of administrative services as determined by the director. All money the department receives for these audits shall be paid into the state treasury to the credit of the human resources fund created in section 124.07 of the Revised Code.~~

~~(b) Authorization for the director of administrative services to conduct periodic audits and reviews of county personnel departments to guarantee the uniform application of the powers, duties, and functions exercised pursuant to division (G)(2)(a) of this section. The costs of the audits and reviews shall be reimbursed to the department of administrative services as determined by the director by the county for which the services are performed. All money the department receives shall be paid into the state treasury to the credit of the human resources fund created in section 124.07 of the Revised Code.~~

(H) County agencies may contract with the department of administrative services for any human resources services, including, but not limited to, establishment and modification of job classification plans, competitive testing services, and periodic audits and reviews of the county's uniform application of the powers, duties, and functions specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code with regard to employees in the service of the county. Nothing in this division modifies the powers and duties of the state personnel board of review with respect to employees in the service of the county. Nothing in this division limits the right of any employee who possesses the right of appeal to the state personnel board of review to continue to possess that right of appeal.

(I) The director of administrative services shall establish the rate and method of compensation for all employees who are paid directly by warrant of the director of budget and management and who are serving in positions that the director of administrative services has determined impracticable to include in the state job

classification plan. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

~~(I)~~(J) The director of administrative services shall set the rate of compensation for all intermittent, seasonal, temporary, emergency, and casual employees in the service of the state who are not considered public employees under section 4117.01 of the Revised Code. Those employees are not entitled to receive employee benefits. This rate of compensation shall be equitable in terms of the rate of employees serving in the same or similar classifications. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

Sec. 124.231. (A) As used in this section, "legally blind person" means any person who qualifies as being blind under any Ohio or federal statute, or any rule adopted thereunder. As used in this section, "legally deaf person" means any person who

qualifies as being deaf under any Ohio or federal statute, or any rule adopted thereunder.

(B) When an examination is to be administered under sections 124.01 to ~~124.64~~ 124.31 of the Revised Code, the director of administrative services or the director's designee shall whenever practicable arrange for special examinations to be administered to legally blind or legally deaf persons applying for positions in the classified service of the state to ensure that the abilities of such applicants are properly assessed and that such applicants are not subject to discrimination because they are legally blind or legally deaf persons.

Sec. 124.241. As used in this section, "professional employee" has the same meaning as in section 5126.20 of the Revised Code and "registered service employee" means a service employee, as defined in section 5126.20 of the Revised Code, who is registered under section 5126.25 of the Revised Code.

County boards of developmental disabilities may hire professional employees and registered service employees in the classified service on the basis of the candidates' qualifications rather than on the basis of the results of ~~an~~ a civil service examination ~~administered by the director of administrative services pursuant to~~, as described in division (D) of section 124.23 of the Revised Code.

Sec. 124.25. The director of administrative services shall require persons applying for an examination for original appointment in the service of the state to file with the director or the director's designee, within reasonable time prior to the examination, a formal application, in which the applicant shall state the applicant's name, address, and such other information as may reasonably be required concerning the applicant's education

and experience. No inquiry shall be made as to religious or political affiliations or as to racial or ethnic origin of the applicant, except as necessary to gather equal employment opportunity or other statistics that, when compiled, will not identify any specific individual.

Blank forms for applications shall be furnished by the director or the director's designee without charge to any person requesting the same. The director or the director's designee may require in connection with such application such certificate of persons having knowledge of the applicant as the good of the service demands. The director or the director's designee may refuse to appoint or examine an applicant, or, after an examination, refuse to certify the applicant as eligible, who is found to lack any of the established preliminary requirements for the examination, who is addicted to the habitual use of intoxicating liquors or drugs to excess, who has a pattern of poor work habits and performance with previous employers, who has been convicted of a felony, who has been guilty of infamous or notoriously disgraceful conduct, who has been dismissed from either branch of the civil service for delinquency or misconduct, or who has made false statements of any material fact, or practiced, or attempted to practice, any deception or fraud in the application or examination, in establishing eligibility, or securing an appointment.

Sec. 124.26. From the returns of ~~the~~ examinations for positions in the service of the state, the director of administrative services or the director's designee shall prepare an eligible list of the persons whose general average standing upon examinations for the class or position is not less than the minimum fixed by the rules of the director, and who are otherwise eligible. Those persons shall take rank upon the eligible list as candidates in the order of their relative excellence as determined

by the examination without reference to priority of the time of examination. If two or more applicants receive the same mark in an open competitive examination, priority in the time of filing the application with the director or the director's designee shall determine the order in which their names shall be placed on the eligible list, except that applicants eligible for veteran's preference under section 124.23 of the Revised Code shall receive priority in rank on the eligible list over nonveterans on the list with a rating equal to that of the veteran. Ties among veterans shall be decided by priority of filing the application.

~~.~~ An eligible list expires upon the filling or closing of the position. An expired eligible list may be used to fill a position of the same classification within the same appointing authority for which the list was created. But, in no event shall an expired list be used more than one year past its expiration date.

Sec. 124.27. (A) Appointments to all positions in the classified civil service, that are not filled by promotion, transfer, or reduction, as provided in sections 124.01 to 124.64 of the Revised Code and the rules of the director prescribed under those sections, shall be made only from those persons whose names take rank order on an eligible list, and no employment, except as provided in those sections, shall be otherwise given in the classified civil service ~~of this state or any political subdivision of the state~~. The appointing authority shall appoint in the following manner: each time a selection is made, it shall be from one of the names that ranks in the top ten names on the eligible list or the top twenty-five per cent of the eligible list, whichever is greater. ~~But, in~~ In the event that ten or fewer names are on the eligible list, the appointing authority may select any of the listed candidates. Each person who qualifies for the veteran's preference under section 124.23 of the Revised Code, who is a resident of this state, and whose name is on the eligible

list for a position is entitled to preference in original appointment to any such competitive position in the classified civil service of the state ~~and its civil divisions~~ over all other persons who are eligible for those appointments and who are standing on the relevant eligible list with a rating equal to that of the person qualifying for the veteran's preference.

(B) All original and promotional appointments in the classified civil service, including appointments made pursuant to section 124.30 of the Revised Code, but not intermittent appointments, shall be for a probationary period, not less than sixty days nor more than one year, to be fixed by the rules of the director for appointments in the civil service of the state, except as provided in section 124.231 of the Revised Code, and except for original appointments to a police department as a police officer or to a fire department as a firefighter which shall be for a probationary period of one year. No appointment or promotion is final until the appointee has satisfactorily served the probationary period. If the service of the probationary employee is unsatisfactory, the employee may be removed or reduced at any time during the probationary period. If the appointing authority decides to remove a probationary employee in the service of the state, the appointing authority shall communicate the removal to the director. A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction under section 124.34 of the Revised Code.

Sec. 124.30. (A) ~~Positions~~ Classified positions in the ~~classified~~ civil service may be filled without competition as follows:

(1) Whenever there are urgent reasons for filling a vacancy in any position in the classified civil service and the director

of administrative services is unable to certify to the appointing authority, upon its request, a list of persons eligible for appointment to the position after a competitive examination, the appointing authority may fill the position by noncompetitive examination.

A temporary appointment may be made without regard to the rules of sections 124.01 to 124.64 of the Revised Code. Except as otherwise provided in this division, the temporary appointment may not continue longer than one hundred twenty days, and in no case shall successive temporary appointments be made. A temporary appointment longer than one hundred twenty days may be made if necessary by reason of sickness, disability, or other approved leave of absence of regular officers or employees, in which case it may continue during the period of sickness, disability, or other approved leave of absence, subject to the rules of the director.

(2) In case of a vacancy in a position in the classified <u>civil</u> service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in this special case is impracticable and that the position can best be filled by a selection of some designated person of high and recognized attainments in those qualities, the director may suspend the provisions of sections 124.01 to 124.64 of the Revised Code that require competition in this special case, but no suspension shall be general in its application. All such cases of suspension shall be reported in the annual report of the director with the reasons for each suspension. The director shall suspend the provisions when the director of job and family services provides the certification under section 5101.051 of the Revised Code that a position with the department of job and family services can best be filled if the provisions are suspended.

(3) The acceptance or refusal by an eligible person of a temporary appointment shall not affect the person's standing on the eligible list for permanent appointment, nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position.

(B) Persons who receive temporary or intermittent appointments are in the unclassified civil service and serve at the pleasure of their appointing authority.

Sec. 124.31. Vacancies in positions in the classified civil service of the state shall be filled insofar as practicable by promotions. The director of administrative services shall provide in the director's rules for keeping a record of efficiency for each employee in the classified civil service of the state, and for making promotions in the classified civil service of the state on the basis of merit and by conduct and capacity in office.

Sec. 125.082. (A) When purchasing equipment, materials, or supplies, the general assembly; the offices of all elected state officers; all departments, boards, offices, commissions, agencies, institutions, including, without limitation, state-supported institutions of higher education, and other instrumentalities of this state; the supreme court; all courts of appeals; and all courts of common pleas, may purchase recycled products in accordance with the guidelines adopted under division (B) of this section if the products are available and meet the performance specifications of the procuring entities. Purchases of recycled products shall comply with any rules adopted under division (C) of this section.

(B) The director of administrative services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing guidelines for the procurement of recycled products pursuant to

division (A) of this section. To the extent practicable, the guidelines shall do all of the following:

(1) Be consistent with and substantially equivalent to any relevant regulations adopted by the administrator of the United States environmental protection agency pursuant to the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(2) Establish the minimum percentage of recycled materials the various products shall contain in order to be considered "recycled" for the purposes of division (A) of this section;

(3) So far as practicable and economically feasible, incorporate specifications for recycled-content materials to promote the use and purchase of recycled products by state agencies.

(C) The director may adopt rules in accordance with Chapter 119. of the Revised Code establishing a maximum percentage by which the cost of recycled products purchased under division (A) of this section may exceed the cost of comparable products made of virgin materials.

(D) The department of administrative services and the ~~department of natural resources~~ environmental protection agency annually shall prepare and submit to the governor, president of the senate, and speaker of the house of representatives a report that describes, so far as practicable, the value and types of recycled products that are purchased with moneys disbursed from the state treasury by the general assembly; the offices of all elected state officers; and all departments, boards, offices, commissions, agencies, and institutions of this state.

Sec. 125.14. (A) The director of administrative services shall allocate any proceeds from the transfer, sale, or lease of

excess and surplus supplies in the following manner:

(1) Except as otherwise provided in division (A)(2) of this section, the proceeds of such a transfer, sale, or lease shall be paid into the state treasury to the credit of the investment recovery fund, which is hereby created.

(2) Except as otherwise provided in division (A)(2) of this section, when supplies originally were purchased with funds from nongeneral revenue fund sources, the director shall determine what fund or account originally was used to purchase the supplies, and the credit for the proceeds from any transfer, sale, or lease of those supplies shall be transferred to that fund or account. If the director cannot determine which fund or account originally was used to purchase the supplies, if the fund or account is no longer active, or if the proceeds from the transfer, sale, or lease of a unit of supplies are less than one hundred dollars or any larger amount the director may establish with the approval of the director of budget and management, then the proceeds from the transfer, sale, or lease of such supplies shall be paid into the state treasury to the credit of the investment recovery fund.

(B) The investment recovery fund shall be used to pay for the operating expenses of the state surplus property program. Any amounts in excess of these operating expenses shall periodically be transferred to the general revenue fund of the state. If proceeds paid into the investment recovery fund are insufficient to pay for the program's operating expenses, a service fee may be charged to state agencies to eliminate the deficit.

(C) Proceeds from the sale of recyclable goods and materials shall be paid into the state treasury to the credit of the recycled materials fund, which is hereby created, except that the director of ~~natural resources~~ environmental protection, upon request, may grant an exemption from this requirement. The ~~chief of the division of recycling and litter prevention in the~~

~~department of natural resources~~ director shall administer the fund for the benefit of recycling programs in state agencies.

Sec. 126.14. The release of any money appropriated for the purchase of real estate shall be approved by the controlling board. The release of money appropriated for all other capital projects is also subject to the approval of the controlling board, except that the director of budget and management may approve the release of money appropriated for specific projects in accordance with the requirements of this section and except that the director of budget and management may approve the release of unencumbered capital balances, for a project to repair, remove, or prevent a public exigency declared to exist by the director of administrative services under section ~~123.15~~ 123.10 of the Revised Code, or by the executive director of the Ohio facilities construction commission under section 123.23 of the Revised Code, in the amount designated in that declaration.

Within sixty days after the effective date of any act appropriating money for capital projects, the director shall determine which appropriations are for general projects and which are for specific projects. Specific projects may include specific higher education projects that are to be funded from general purpose appropriations from the higher education improvement fund or the higher education improvement taxable fund created in section 154.21 of the Revised Code. Upon determining which projects are general and which are specific, the director shall submit to the controlling board a list that includes a brief description of and the estimated expenditures for each specific project. The release of money for any specific higher education projects that are to be funded from general purpose appropriations from the higher education improvement fund or the higher education improvement taxable fund but that are not included on the list, and the release of money for any specific higher education

projects included on the list that will exceed the estimated expenditures by more than ten per cent, are subject to the approval of the controlling board.

The director may create new appropriation items and make transfers of appropriations to them for specific higher education projects included on the list that are to be funded from general purpose appropriations for basic renovations that are made from the higher education improvement fund or the higher education improvement taxable fund.

Sec. 127.163. At the time an agency submits a request to the controlling board to approve the making of a purchase, if the requested purchase is to be made from a supplier who is not headquartered in this state but has a presence in this state, the agency shall include in the request the following information:

(A) The address or addresses of the supplier's places of business in this state;

(B) The total number of employees the supplier employs in each of its places of business in this state;

(C) The percentage of the requested purchase to be completed by employees of the supplier located in this state;

(D) A list of any suppliers, subcontractors, or other entities the supplier intends to use to fulfill the requested purchase that includes all of the following:

(1) The address or addresses of the places of business in this state of each potential supplier, subcontractor, or entity;

(2) The number of employees that each potential supplier, subcontractor, or entity employs in each of its places of business in this state;

(3) The percentage of the requested purchase to be completed by employees of the potential supplier, subcontractor, or entity

located in this state.

Sec. 127.164. (A) Prior to submitting a request to approve the making of a purchase to the controlling board, an agency shall contact any entity headquartered in this state that the agency approached related to the proposed purchase or to whom the agency sent a request for proposals but who did not respond to the request for proposals and ascertain why the entity did not respond.

(B) At the time an agency submits a request to the controlling board to approve the making of a purchase, the agency shall submit to the board, as part of the request, the information that the agency collected under division (A) of this section.

Sec. 135.35. (A) The investing authority shall deposit or invest any part or all of the county's inactive moneys and shall invest all of the money in the county public library fund when required by section 135.352 of the Revised Code. The following classifications of securities and obligations are eligible for such deposit or investment:

(1) United States treasury bills, notes, bonds, or any other obligation or security issued by the United States treasury, any other obligation guaranteed as to principal or interest by the United States, or any book entry, zero-coupon United States treasury security that is a direct obligation of the United States.

Nothing in the classification of eligible securities and obligations set forth in divisions (A)(2) to (11) or (A)(13) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible securities and obligations.

(2) Bonds, notes, debentures, or any other obligations or

securities issued by any federal government agency or instrumentality, including, but not limited to, the federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation, government national mortgage association, and student loan marketing association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

(3) Time certificates of deposit or savings or deposit accounts, including, but not limited to, passbook accounts, in any eligible institution mentioned in section 135.32 of the Revised Code;

(4) Bonds and other obligations of this state ~~or the political subdivisions of this state~~;

(5) No-load money market mutual funds consisting exclusively of obligations described in division (A)(1) or (2) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.32 of the Revised Code;

(6) The Ohio subdivision's fund as provided in section 135.45 of the Revised Code;

(7) Securities lending agreements with any eligible institution mentioned in section 135.32 of the Revised Code that is a member of the federal reserve system or federal home loan bank or with any recognized United States government securities dealer meeting the description in division (J)(1) of this section, under the terms of which agreements the investing authority lends securities and the eligible institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.

Securities and cash received as collateral for a securities lending agreement are not inactive moneys of the county or moneys of a county public library fund. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in instruments specified by the investing authority in the written investment policy described in division (K) of this section.

(8) Up to twenty-five per cent of the county's total average portfolio in either of the following investments:

(a) Commercial paper notes issued by an entity that is defined in division (D) of section 1705.01 of the Revised Code and that has assets exceeding five hundred million dollars, to which notes all of the following apply:

(i) The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.

(ii) The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.

(iii) The notes mature not later than two hundred seventy days after purchase.

(b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and to which both of the following apply:

(i) The obligations are eligible for purchase by the federal reserve system.

(ii) The obligations mature not later than one hundred eighty days after purchase.

No investment shall be made pursuant to division (A)(8) of this section unless the investing authority has completed

additional training for making the investments authorized by division (A)(8) of this section. The type and amount of additional training shall be approved by the auditor of state and may be conducted by or provided under the supervision of the auditor of state.

(9) Up to fifteen per cent of the county's total average portfolio in notes issued by corporations that are incorporated under the laws of the United States and that are operating within the United States, or by depository institutions that are doing business under authority granted by the United States or any state and that are operating within the United States, provided both of the following apply:

(a) The notes are rated in the second highest or higher category by at least two nationally recognized standard rating services at the time of purchase.

(b) The notes mature not later than two years after purchase.

(10) No-load money market mutual funds rated in the highest category at the time of purchase by at least one nationally recognized standard rating service and consisting exclusively of obligations described in division (A)(1), (2), or (6) of section 135.143 of the Revised Code;

(11) Debt interests rated at the time of purchase in the three highest categories by two nationally recognized standard rating services and issued by foreign nations diplomatically recognized by the United States government. All interest and principal shall be denominated and payable in United States funds. The investments made under division (A)(11) of this section shall not exceed in the aggregate one per cent of a county's total average portfolio.

The investing authority shall invest under division (A)(11) of this section in a debt interest issued by a foreign nation only

if the debt interest is backed by the full faith and credit of that foreign nation, there is no prior history of default, and the debt interest matures not later than five years after purchase. For purposes of division (A)(11) of this section, a debt interest is rated in the three highest categories by two nationally recognized standard rating services if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, at the time of purchase in the three highest categories by two nationally recognized standard rating services.

(12) A current unpaid or delinquent tax line of credit authorized under division (G) of section 135.341 of the Revised Code, provided that all of the conditions for entering into such a line of credit under that division are satisfied, or bonds and other obligations of a county land reutilization corporation organized under Chapter 1724. of the Revised Code, if the county land reutilization corporation is located wholly or partly within the same county as the investing authority;

(13) Either or both of the following, provided the investments are specifically approved by the investment advisory committee and the aggregate amount invested pursuant to division (A)(13) of this section does not exceed fifteen per cent of the county's total average portfolio:

(a) Bonds or other obligations of the political subdivisions of this state, regardless of their date of maturity;

(b) Securities or obligations otherwise eligible for investment under this section that mature on a date that is more than five years but not more than ten years from the date of settlement.

(B) Nothing in the classifications of eligible obligations and securities set forth in divisions (A)(1) to (11) or (A)(13) of this section shall be construed to authorize investment in a

derivative, and no investing authority shall invest any county inactive moneys or any moneys in a county public library fund in a derivative. For purposes of this division, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (A)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years. A treasury inflation-protected security shall not be considered a derivative, provided the security matures not later than five years after purchase.

(C) Except for the investments described in division (A)(13) of this section or as provided in ~~divisions~~ division (D) ~~and (O)~~ of this section, any investment made pursuant to this section must mature within ~~ten~~ five years from the date of settlement~~, unless the investment is matched to a specific obligation or debt of the county or to a specific obligation or debt of a political subdivision of this state, and the investment is specifically approved by the investment advisory committee~~.

(D) The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.32 of the Revised Code or any eligible securities dealer pursuant to division (J) of this section, under the terms of which agreement the investing authority purchases and the eligible institution or dealer agrees unconditionally to

repurchase any of the securities listed in divisions (B)(1) to (5), except letters of credit described in division (B)(2), of section 135.18 of the Revised Code. The market value of securities subject to an overnight written repurchase agreement must exceed the principal value of the overnight written repurchase agreement by at least two per cent. A written repurchase agreement must exceed the principal value of the overnight written repurchase agreement, by at least two per cent. A written repurchase agreement shall not exceed thirty days, and the market value of securities subject to a written repurchase agreement must exceed the principal value of the written repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution shall provide all of the following information:

(1) The par value of the securities;

(2) The type, rate, and maturity date of the securities;

(3) A numerical identifier generally accepted in the securities industry that designates the securities.

No investing authority shall enter into a written repurchase agreement under the terms of which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(E) No investing authority shall make an investment under this section, unless the investing authority, at the time of

making the investment, reasonably expects that the investment can be held until its maturity. The investing authority's written investment policy shall specify the conditions under which an investment may be redeemed or sold prior to maturity.

(F) No investing authority shall pay a county's inactive moneys or moneys of a county public library fund into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established by the subdivision, treasurer, governing board, or investing authority for the purpose of investing or depositing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:

(1) The Ohio subdivision's fund pursuant to division (A)(6) of this section;

(2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

For purposes of division (F) of this section, "subdivision" includes a county.

(G) The use of leverage, in which the county uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities not owned by the county, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(H) Any securities, certificates of deposit, deposit accounts, or any other documents evidencing deposits or investments made under authority of this section shall be issued in the name of the county with the county treasurer or investing

authority as the designated payee. If any such deposits or investments are registrable either as to principal or interest, or both, they shall be registered in the name of the treasurer.

(I) The investing authority shall be responsible for the safekeeping of all documents evidencing a deposit or investment acquired under this section, including, but not limited to, safekeeping receipts evidencing securities deposited with a qualified trustee, as provided in section 135.37 of the Revised Code, and documents confirming the purchase of securities under any repurchase agreement under this section shall be deposited with a qualified trustee, provided, however, that the qualified trustee shall be required to report to the investing authority, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the county for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the investing authority.

Upon the expiration of the term of office of an investing authority or in the event of a vacancy in the office for any reason, the officer or the officer's legal representative shall transfer and deliver to the officer's successor all documents mentioned in this division for which the officer has been responsible for safekeeping. For all such documents transferred and delivered, the officer shall be credited with, and the officer's successor shall be charged with, the amount of moneys evidenced by such documents.

(J)(1) All investments, except for investments in securities described in divisions (A)(5), (6), ~~and~~ (12)<u>, and (13)</u> of this section, shall be made only through a member of the national

association of securities dealers, through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.

(2) Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, investing authority, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

(K)(1) Except as otherwise provided in division (K)(2) of this section, no investing authority shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the investing authority. The policy shall require that all entities conducting investment business with the investing authority shall sign the investment policy of that investing authority. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, initiating transactions with the investing authority by giving advice or making investment recommendations shall sign the investing authority's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, executing transactions initiated by the investing authority, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

(2) If a written investment policy described in division (K)(1) of this section is not filed on behalf of the county with the auditor of state, the investing authority of that county shall

invest the county's inactive moneys and moneys of the county public library fund only in time certificates of deposits or savings or deposit accounts pursuant to division (A)(3) of this section, no-load money market mutual funds pursuant to division (A)(5) of this section, or the Ohio subdivision's fund pursuant to division (A)(6) of this section.

(L)(1) The investing authority shall establish and maintain an inventory of all obligations and securities acquired by the investing authority pursuant to this section. The inventory shall include a description of each obligation or security, including type, cost, par value, maturity date, settlement date, and any coupon rate.

(2) The investing authority shall also keep a complete record of all purchases and sales of the obligations and securities made pursuant to this section.

(3) The investing authority shall maintain a monthly portfolio report and issue a copy of the monthly portfolio report describing such investments to the county investment advisory committee, detailing the current inventory of all obligations and securities, all transactions during the month that affected the inventory, any income received from the obligations and securities, and any investment expenses paid, and stating the names of any persons effecting transactions on behalf of the investing authority.

(4) The monthly portfolio report shall be a public record and available for inspection under section 149.43 of the Revised Code.

(5) The inventory and the monthly portfolio report shall be filed with the board of county commissioners. The monthly portfolio report also shall be filed with the treasurer of state.

(M) An investing authority may enter into a written investment or deposit agreement that includes a provision under

which the parties agree to submit to nonbinding arbitration to settle any controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the investing authority is located.

For purposes of this division, "investment or deposit agreement" means any agreement between an investing authority and a person, under which agreement the person agrees to invest, deposit, or otherwise manage, on behalf of the investing authority, a county's inactive moneys or moneys in a county public library fund, or agrees to provide investment advice to the investing authority.

(N) An investment held in the county portfolio on September 27, 1996, that was a legal investment under the law as it existed before September 27, 1996, may be held until maturity, or if the investment does not have a maturity date the investment may be held until five years from September 27, 1996, regardless of whether the investment would qualify as a legal investment under the terms of this section as amended.

~~(O) Upon a majority affirmative vote of the county investment advisory committee in support of such action, an investment authority may invest up to twenty-five per cent of the county's total average portfolio of investments made under this section in securities and obligations that mature on a date that is more than ten years from the date of settlement.~~

Sec. 140.01. As used in this chapter:

(A) "Hospital agency" means any public hospital agency or any nonprofit hospital agency.

(B) "Public hospital agency" means any county, board of county hospital trustees established pursuant to section 339.02 of the Revised Code, county hospital commission established pursuant to section 339.14 of the Revised Code, municipal corporation, new community authority organized under Chapter 349. of the Revised Code, joint township hospital district, state or municipal university or college operating or authorized to operate a hospital facility, or the state.

(C) "Nonprofit hospital agency" means a corporation or association not for profit, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

(D) "Governing body" means, in the case of a county, the board of county commissioners or other legislative body; in the case of a board of county hospital trustees, the board; in the case of a county hospital commission, the commission; in the case of a municipal corporation, the council or other legislative authority; in the case of a new community authority, its board of trustees; in the case of a joint township hospital district, the joint township district hospital board; in the case of a state or municipal university or college, its board of trustees or board of directors; in the case of a nonprofit hospital agency, the board of trustees or other body having general management of the agency; and, in the case of the state, the director of development or the Ohio higher educational facility commission.

(E) "Hospital facilities" means buildings, structures and

other improvements, additions thereto and extensions thereof, furnishings, equipment, and real estate and interests in real estate, used or to be used for or in connection with one or more hospitals, emergency, intensive, intermediate, extended, long-term, or self-care facilities, diagnostic and treatment and out-patient facilities, facilities related to programs for home health services, clinics, laboratories, public health centers, research facilities, and rehabilitation facilities, for or pertaining to diagnosis, treatment, care, or rehabilitation of sick, ill, injured, infirm, impaired, disabled, or handicapped persons, or the prevention, detection, and control of disease, and also includes education, training, and food service facilities for health professions personnel, housing facilities for such personnel and their families, and parking and service facilities in connection with any of the foregoing; and includes any one, part of, or any combination of the foregoing; and further includes site improvements, utilities, machinery, facilities, furnishings, and any separate or connected buildings, structures, improvements, sites, utilities, facilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, any one or more of such hospital facilities.

(F) "Costs of hospital facilities" means the costs of acquiring hospital facilities or interests in hospital facilities, including membership interests in nonprofit hospital agencies, costs of constructing hospital facilities, costs of improving one or more hospital facilities, including reconstructing, rehabilitating, remodeling, renovating, and enlarging, costs of equipping and furnishing such facilities, and all financing costs pertaining thereto, including, without limitation thereto, costs of engineering, architectural, and other professional services, designs, plans, specifications and surveys, and estimates of cost, costs of tests and inspections, the costs of any indemnity or

surety bonds and premiums on insurance, all related direct or allocable administrative expenses pertaining thereto, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisors, attorneys, accountants, consultants and rating services in connection therewith, capitalized interest on the obligations, amounts necessary to establish reserves as required by the bond proceedings, the reimbursement of all moneys advanced or applied by the hospital agency or others or borrowed from others for the payment of any item or items of costs of such facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of such facilities, the financing thereof, and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses, and means the costs of refinancing obligations issued by, or reimbursement of money advanced by, nonprofit hospital agencies or others the proceeds of which were used for the payment of costs of hospital facilities, if the governing body of the public hospital agency determines that the refinancing or reimbursement advances the purposes of this chapter, whether or not the refinancing or reimbursement is in conjunction with the acquisition or construction of additional hospital facilities.

(G) "Hospital receipts" means all moneys received by or on behalf of a hospital agency from or in connection with the ownership, operation, acquisition, construction, improvement, equipping, or financing of any hospital facilities, including, without limitation thereto, any rentals and other moneys received from the lease, sale, or other disposition of hospital facilities,

and any gifts, grants, interest subsidies, or other moneys received under any federal program for assistance in financing the costs of hospital facilities, and any other gifts, grants, and donations, and receipts therefrom, available for financing the costs of hospital facilities.

(H) "Obligations" means bonds, notes, or other evidences of indebtedness or obligation, including interest coupons pertaining thereto, issued or issuable by a public hospital agency to pay costs of hospital facilities.

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.

(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.

(K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code.

(L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code.

(M) ~~"Adult care facility" has the same meaning as in division (A)(3) of section 5701.13 of the Revised Code.~~

~~(N)~~ "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:

(1) A hospital required to be certified by section 3727.02 of

the Revised Code;

(2) A nursing home or residential care facility;

(3) ~~An adult care facility;~~

~~(4)~~ A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code and used for the program's hospice patients;

(4) A residential facility licensed by the department of mental health under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(5) A residential facility ~~for the mentally ill~~ licensed by the department of mental health under section 5119.22 of the Revised Code that is not a residential facility described in division (M)(4) of this section;

(6) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(7) A facility certified as an alcohol and drug addiction program under section 3793.06 of the Revised Code;

(8) A residential facility licensed under section 5123.19 of the Revised Code or a facility providing services under a contract with the department of developmental disabilities under section 5123.18 of the Revised Code;

(9) A residential facility used as part of a hospital to provide housing for staff of the hospital or students pursuing a course of study at the hospital.

Sec. 140.03. (A) Two or more hospital agencies may enter into agreements for the acquisition, construction, reconstruction, rehabilitation, remodeling, renovating, enlarging, equipping, and furnishing of hospital facilities, or the management, operation,

occupancy, use, maintenance, and repair of hospital facilities, or for participation in programs, projects, activities, and services useful to, connected with, supplementing, or otherwise related to the services provided by, or the operation of, hospital facilities operated by one or more participating hospital agencies, including any combination of such purposes, all in such manner as to promote the public purpose stated in section 140.02 of the Revised Code. A city health district; general health district; board of alcohol, drug addiction, and mental health services; county board of developmental disabilities; the department of mental health; the department of developmental disabilities; or any public body engaged in the education or training of health professions personnel may join in any such agreement for purposes related to its authority under laws applicable to it, and as such a participant shall be considered a public hospital agency or hospital agency for the purposes of this section.

(B) An agreement entered into under authority of this section shall, where appropriate, provide for:

(1) The manner in which the title to the hospital facilities, including the sites and interest in real estate pertaining thereto, is to be held, transferred, or disposed of;

(2) Unless provided for by lease pursuant to section 140.05 of the Revised Code, the method by which such hospital facilities are to be acquired, constructed, or otherwise improved and by which they shall be managed, occupied, maintained, and repaired, including the designation of one of the hospital agencies to have charge of the details of acquisition, construction, or improvement pursuant to the contracting procedures prescribed under the law applicable to one of the participating public hospital agencies;

(3) The management or administration of any such programs, projects, activities, or services, which may include management or administration by one of said hospital agencies or a board or

agency thereof;

(4) Annual, or more frequent, reports to the participating hospital agencies as to the revenues and receipts pertaining to the subject of the agreement, the expenditures thereof, the status and application of other funds contributed under such agreement, and such other matters as may be specified by or pursuant to such agreement;

(5) The manner of apportionment or sharing of costs of hospital facilities, any other applicable costs of management, operation, maintenance, and repair of hospital facilities, and costs for the programs, projects, activities, and services forming the subject of the agreement, which apportionment or sharing may be prescribed in fixed amounts, or determined by ratios, formulas, or otherwise, and paid as service charges, rentals, or in such other manner as provided in the agreement, and may include amounts sufficient to meet the bond service charges and other payments and deposits required under the bond proceedings for obligations issued to pay costs of hospital facilities. A hospital agency may commit itself to make such payments at least for so long as any such obligations are outstanding. In the apportionment, different classes of costs or expenses may be apportioned to one or more, all or less than all, of the participating hospital agencies as determined under such agreement.

(C) An agreement entered into under authority of this section may provide for:

(1) An orderly process for making determinations or advising as to planning, execution, implementation, and operation, which may include designating one of the hospital agencies, or a board thereof, for any of such purposes, provisions for a committee, board, or commission, and for representation thereon, or as may otherwise be provided;

(2) Securing necessary personnel, including participation of personnel from the respective hospital agencies;

(3) Standards or conditions for the admission or participation of patients and physicians;

(4) Conditions for admittance of other hospital agencies to participation under the agreement;

(5) Fixing or establishing the method of determining charges to be made for particular services;

(6) The manner of amending, supplementing, terminating, or withdrawal or removal of any party from, the agreement, and the term of the agreement, or an indefinite term;

(7) Designation of the applicants for or recipients of any federal, state, or other aid, assistance, or loans available by reason of any activities conducted under the agreement;

(8) Designation of one or more of the participating hospital agencies to maintain, prepare, and submit, on behalf of all parties to the agreement, any or all records and reports with regard to the activities conducted under the agreement;

(9) Any incidental use of the hospital facilities, or services thereof, by participating public hospital agencies for any of their lawful purposes, which incidental use does not impair the character of the facilities as hospital facilities for any purpose of this chapter;

(10) Such other matters as the parties thereto may agree upon for the purposes of division (A) of this section.

(D) For the purpose of paying or contributing its share under an agreement made under this section, a public hospital agency may:

(1) Expend any moneys from its general fund, and from any other funds not otherwise restricted by law, but including funds

for permanent improvements of hospital facilities of such public hospital agency where the contribution is to be made toward the costs of hospital facilities under the agreement, and including funds derived from levies for, or receipts available for, operating expenses of hospital facilities or services of such public hospital agency where the contribution or payment is to be made toward operating expenses of the hospital facilities or services under the agreement or for the services provided thereby;

(2) Issue obligations under Chapter 133. or section 140.06, 339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 3 of Article XVIII, Ohio Constitution, if applicable to such public hospital agency, to pay costs of hospital facilities, or issue obligations under any other provision of law authorizing such public hospital agency to issue obligations for any costs of hospital facilities;

(3) Levy taxes under Chapter 5705. or section 513.13 or 3709.29 of the Revised Code, if applicable to such public hospital agency, provided that the purpose of such levy may include the provision of funds for either or both permanent improvements and current expenses if required for the contribution or payment of such hospital agency under such agreement, and each such public hospital agency may issue notes in anticipation of any such levy, pursuant to the procedures provided in section 5705.191 of the Revised Code if the levy is solely for current expenses, and in section 5705.193 of the Revised Code if the levy is all or in part for permanent improvements;

(4) Contribute real and personal property or interest therein without necessity for competitive bidding or public auction on disposition of such property.

(E) Any funds provided by public hospital agencies that are parties to an agreement entered into under this section shall be transferred to and placed in a separate fund or funds of such

participating public hospital agency as is designated under the agreement. The funds shall be applied for the purposes provided in such agreement and are subject to audit. Pursuant to any determinations to be made under such agreement, the funds shall be deposited, invested, and disbursed under the provisions of law applicable to the public hospital agency in whose custody the funds are held. This division is subject to the provisions of any applicable bond proceedings under section 133.08, 140.06, 339.15, or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio Constitution. The records and reports of such public hospital agency under Chapter 117. of the Revised Code and sections 3702.51 to 3702.62 of the Revised Code, with respect to the funds shall be sufficient without necessity for reports thereon by the other public hospital agencies participating under such agreement.

(F)(1) Prior to its entry into any such agreement, the public hospital agency must determine, and set forth in a resolution or ordinance, that the contribution to be made by it under such agreement will be fair consideration for value and benefit to be derived by it under such agreement and that the agreement will promote the public purpose stated in section 140.02 of the Revised Code.

(2) If the agreement is with a board of county commissioners, board of county hospital trustees, or county hospital commission and is an initial agreement for the acquisition or operation of a county hospital operated by a board of county hospital trustees under section 339.06 of the Revised Code, the governing body of the public hospital agency shall submit the agreement, accompanied by the resolution or ordinance, to the board of county commissioners for review pursuant to section 339.091 of the Revised Code. The agreement may be entered into only if the board of county commissioners adopts a resolution under that section. The requirements of division (F)(2) of this section do not apply

to the agreement if one or more hospitals classified as general hospitals by the ~~public~~ director of health ~~council~~ under section 3701.07 of the Revised Code are operating in the same county as the county hospital.

Sec. 140.05. (A)(1) A public hospital agency may lease any hospital facility to one or more hospital agencies for use as a hospital facility, or to one or more city or general health districts; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; the department of mental health; or the department of developmental disabilities, for uses which they are authorized to make thereof under the laws applicable to them, or any combination of them, and they may lease such facilities to or from a hospital agency for such uses, upon such terms and conditions as are agreed upon by the parties. Such lease may be for a term of fifty years or less and may provide for an option of the lessee to renew for a term of fifty years or less, as therein set forth. Prior to entering into such lease, the governing body of any public hospital agency granting such lease must determine, and set forth in a resolution or ordinance, that such lease will promote the public purpose stated in section 140.02 of the Revised Code and that the lessor public hospital agency will be duly benefited thereby.

(2) If the lease is with a board of county commissioners, board of county hospital trustees, or county hospital commission and is an agreement for the initial lease of a county hospital operated by a board of county hospital trustees under section 339.06 of the Revised Code, the governing body of the public hospital agency shall submit the agreement, accompanied by the resolution or ordinance, to the board of county commissioners for review pursuant to section 339.091 of the Revised Code. The agreement may be entered into only if the board of county commissioners adopts a resolution under that section. The

requirements of division (A)(2) of this section do not apply to the lease if one or more hospitals classified as general hospitals by the ~~public~~ director of health ~~council~~ under section 3701.07 of the Revised Code are operating in the same county as the county hospital.

(B) Any lease entered into pursuant to this section shall provide that in the event that the lessee fails faithfully and efficiently to administer, maintain, and operate such leased facilities as hospital facilities, or fails to provide the services thereof without regard to race, creed, color, or national origin, or fails to require that any hospital agency using such facilities or the services thereof shall not discriminate by reason of race, creed, color, or national origin, after an opportunity to be heard upon written charges, said lease may be terminated at the time, in the manner and with consequences therein provided. If any such lease does not contain terms to the effect provided in this division, it shall nevertheless be deemed to contain such terms which shall be implemented as determined by the governing body of the lessor.

(C) Such lease may provide for rentals commencing at any time agreed upon, or advance rental, and continuing for such period therein provided, notwithstanding and without diminution, rebate, or setoff by reason of time of availability of the hospital facility for use, delays in construction, failure of completion, damage or destruction of the hospital facilities, or for any other reason.

(D) Such lease may provide for the sale or transfer of title of the leased facilities pursuant to an option to purchase, lease-purchase, or installment purchase upon terms therein provided or to be determined as therein provided, which may include provision for the continued use thereof as a hospital facility for some reasonable period, taking into account efficient

useful life and other factors, as is provided therein.

(E) Such lease may be entered as part of or in connection with an agreement pursuant to section 140.03 of the Revised Code. Any hospital facilities which are the subject of an agreement entered into under section 140.03 of the Revised Code may be leased pursuant to this section.

(F) If land acquired by a public hospital agency for a hospital facility is adjacent to an existing hospital facility owned by another hospital agency, the public hospital agency may, in connection with such acquisition or the leasing of such land and hospital facilities thereon to one or more hospital agencies, enter into an agreement with the hospital agency which owns such adjacent hospital facility for the use of common walls in the construction, operation, or maintenance of hospital facilities of the public hospital agency. For the purpose of construction, operation, or maintenance of hospital facilities, a public hospital agency may acquire by purchase, gift, lease, lease with option to purchase, lease-purchase, or installment purchase, easement deed, or other agreement, real estate and interests in real estate, including rights to use space over, under or upon real property owned by others, and support, access, common wall, and other rights in connection therewith. Any public hospital agency or other political subdivision or any public agency, board, commission, institution, body, or instrumentality may grant such real estate, interests, or rights to any hospital agency upon such terms as are agreed upon without necessity for competitive bidding or public auction.

Sec. 140.08. (A) Except as otherwise provided in divisions (B)(1) and (2) of this section, all hospital facilities purchased, acquired, constructed, or owned by a public hospital agency, or financed in whole or in part by obligations issued by a public

hospital agency, and used, or to be used when completed, as hospital facilities, and the income therefrom, are exempt from all taxation within this state, including ad valorem and excise taxes, notwithstanding any other provisions of law, and hospital agencies are exempt from taxes levied under Chapters 5739. and 5741. of the Revised Code. The obligations issued hereafter under section 133.08, 140.06, or 339.15 of the Revised Code or Section 3 of Article XVIII, Ohio Constitution, to pay costs of hospital facilities or to refund such obligations, and the transfer thereof, and the interest and other income from such obligations, including any profit made on the sale thereof, is free from taxation within the state.

(B)(1) Division (A) of this section does not exempt independent living facilities from taxes levied on property or taxes levied under Chapters 5739. and 5741. of the Revised Code. If an independent living facility or part of such facility becomes ~~an adult care facility, nursing home, or residential care facility~~ on or after January 10, 1991, a nursing home, residential care facility, or residential facility described in division (M)(4) of section 140.01 of the Revised Code, that part of the independent living facility that is ~~an adult care facility,~~ a nursing home, ~~or~~ residential care facility, or residential facility described in division (M)(4) of section 140.01 of the Revised Code is exempt from taxation subject to division (B)(2) of this section on and after the date it becomes ~~an adult care facility,~~ a nursing home, ~~or~~ residential care facility, or residential facility described in division (M)(4) of section 140.01 of the Revised Code.

(2) Division (A) of this section exempts nursing homes, residential care facilities, and ~~adult care~~ residential facilities described in division (M)(4) of section 140.01 of the Revised Code from taxes levied on property and taxes levied under Chapters 5739. and 5741. of the Revised Code only until all obligations

issued to finance such homes or facilities, or all refunding or series of refundings of those obligations, are redeemed or otherwise retired.

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in division (A)(1) of this section, or employed and paid in whole or in part by the state or any of the authorities named in division (A)(1) of this section in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

(2) A person who is a member of the public employees retirement system and who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of the contract was a publicly operated function. The governmental unit with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.

(3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the employee makes the payments

required by this chapter, and the employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

(4) A person who elects in accordance with section 145.015 of the Revised Code to remain a contributing member of the public employees retirement system.

(5) A person who is an employee of the legal rights service on September 30, 2012, and continues to be employed by the nonprofit entity established under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly. The nonprofit entity is the employer for the purpose of this chapter.

In all cases of doubt, the public employees retirement board shall determine whether any person is a public employee, and its decision is final.

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter government, by that charter.

(D) "Employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union

cemetery, joint hospital, institutional commissary, state medical university, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. In addition, "employer" means the employer of any public employee.

(E) "Prior service" means all service as a public employee rendered before January 1, 1935, and all service as an employee of any employer who comes within the state teachers retirement system or of the school employees retirement system or of any other retirement system established under the laws of this state rendered prior to January 1, 1935, provided that if the employee claiming the service was employed in any capacity covered by that other system after that other system was established, credit for the service may be allowed by the public employees retirement system only when the employee has made payment, to be computed on the salary earned from the date of appointment to the date membership was established in the public employees retirement system, at the rate in effect at the time of payment, and the employer has made payment of the corresponding full liability as provided by section 145.44 of the Revised Code. "Prior service" also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

If an employee who has been granted prior service credit by the public employees retirement system for service rendered prior to January 1, 1935, as an employee of a board of education establishes, before retirement, one year or more of contributing service in the state teachers retirement system or school employees retirement system, then the prior service ceases to be

the liability of this system.

If the board determines that a position of any member in any calendar year prior to January 1, 1935, was a part-time position, the board shall determine what fractional part of a year's credit shall be allowed by the following formula:

(1) When the member has been either elected or appointed to an office the term of which was two or more years and for which an annual salary is established, the fractional part of the year's credit shall be computed as follows:

First, when the member's annual salary is one thousand dollars or less, the service credit for each such calendar year shall be forty per cent of a year.

Second, for each full one hundred dollars of annual salary above one thousand dollars, the member's service credit for each such calendar year shall be increased by two and one-half per cent.

(2) When the member is paid on a per diem basis, the service credit for any single year of the service shall be determined by using the number of days of service for which the compensation was received in any such year as a numerator and using two hundred fifty days as a denominator.

(3) When the member is paid on an hourly basis, the service credit for any single year of the service shall be determined by using the number of hours of service for which the compensation was received in any such year as a numerator and using two thousand hours as a denominator.

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code. When used in the sections listed in division (B) of section 145.82 of the Revised Code, "contributor" includes any person participating in a PERS defined contribution plan.

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retirant, qualify for or are receiving some right or benefit under this chapter.

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's prior service credit; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. In addition, "total service credit" includes any period, not in excess of three years, during which a member was out of service and receiving benefits under Chapters 4121. and 4123. of the Revised Code. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the

date membership was established. When that payment has been made by all such employee members, a corresponding payment shall be paid into the employers' accumulation fund by that municipal corporation as the employer of the employees.

(3) Where a member also is a member of the state teachers retirement system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code or as provided in section 145.383 of the Revised Code, service credit for any period shall be credited on the basis of the ratio that contributions to the public employees retirement system bear to total contributions in all state retirement systems.

(4) Not more than one year of credit may be given for any period of twelve months.

(5) "Ohio service credit" means credit for service that was rendered to the state or any of its political subdivisions or any employer.

(I) "Regular interest" means interest at any rates for the respective funds and accounts as the public employees retirement board may determine from time to time.

(J) "Accumulated contributions" means the sum of all amounts credited to a contributor's individual account in the employees' savings fund together with any interest credited to the contributor's account under section 145.471 or 145.472 of the Revised Code.

(K)(1) "Final average salary" means the quotient obtained by dividing by three the sum of the three full calendar years of contributing service in which the member's earnable salary was highest, except that if the member has a partial year of contributing service in the year the member's employment terminates and the member's earnable salary for the partial year

is higher than for any comparable period in the three years, the member's earnable salary for the partial year shall be substituted for the member's earnable salary for the comparable period during the three years in which the member's earnable salary was lowest.

(2) If a member has less than three years of contributing service, the member's final average salary shall be the member's total earnable salary divided by the total number of years, including any fraction of a year, of the member's contributing service.

(3) For the purpose of calculating benefits payable to a member qualifying for service credit under division (Z) of this section, "final average salary" means the total earnable salary on which contributions were made divided by the total number of years during which contributions were made, including any fraction of a year. If contributions were made for less than twelve months, "final average salary" means the member's total earnable salary.

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M) "Annuity reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.

(N)(1) "Disability retirement" means retirement as provided in section 145.36 of the Revised Code.

(2) "Disability allowance" means an allowance paid on account of disability under section 145.361 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 145.36 of the Revised Code, as a

disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code.

(4) "Disability benefit recipient" means a member who is receiving a disability benefit.

(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of the Revised Code.

(P) "Pensions" means annual payments for life derived from contributions made by the employer that at the time of retirement are credited into the annuity and pension reserve fund from the employers' accumulation fund and paid from the annuity and pension reserve fund as provided in this chapter. All pensions shall be paid in twelve equal monthly installments.

(Q) "Retirement allowance" means the pension plus that portion of the benefit derived from contributions made by the member.

(R)(1) Except as otherwise provided in division (R) of this section, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following:

(a) Payments made by the employer in lieu of salary, wages, or other earnings for sick leave, personal leave, or vacation used by the contributor;

(b) Payments made by the employer for the conversion of sick leave, personal leave, and vacation leave accrued, but not used if

the payment is made during the year in which the leave is accrued, except that payments made pursuant to section 124.383 or 124.386 of the Revised Code are not earnable salary;

(c) Allowances paid by the employer for full maintenance, consisting of housing, laundry, and meals, as certified to the retirement board by the employer or the head of the department that employs the contributor;

(d) Fees and commissions paid under section 507.09 of the Revised Code;

(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions;

(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.

(2) "Earnable salary" does not include any of the following:

(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;

(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;

(d) Reimbursement for job-related expenses authorized by the

employer, including moving and travel expenses and expenses related to professional development;

(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;

(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.

(3) The retirement board shall determine by rule whether any compensation not enumerated in division (R) of this section is earnable salary, and its decision shall be final.

(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter.

(T)(1) "Contributing service" means all service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed by the following formula:

(a) For each month for which the member's earnable salary is two hundred fifty dollars or more, allow one month's credit.

(b) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit. The numerator of this fraction shall be the earnable salary during the month, and the denominator shall be two hundred fifty dollars, except that if the member's annual earnable salary is less than six hundred dollars, the member's credit shall not be reduced below twenty per cent of a year for a calendar year of employment during which the member worked each month. Division (T)(1)(b) of this section shall not reduce any credit earned before January 1, 1985.

(2) Notwithstanding division (T)(1) of this section, an elected official who prior to January 1, 1980, was granted a full year of credit for each year of service as an elected official shall be considered to have earned a full year of credit for each year of service regardless of whether the service was full-time or part-time. The public employees retirement board has no authority to reduce the credit.

(U) "State retirement board" means the public employees retirement board, the school employees retirement board, or the

state teachers retirement board.

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.34, and 145.46 of the Revised Code.

(W) "Employer contribution" means the amount paid by an employer as determined under section 145.48 of the Revised Code.

(X) "Public service terminates" means the last day for which a public employee is compensated for services performed for an employer or the date of the employee's death, whichever occurs first.

(Y) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's contributions calculated upon the basis of the increased salary for the office. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of the member's contributions would have increased, had the member received the increased salary for the office the member holds. If the member elects to have the amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have that amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount the member's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the board and computed from the date on which the last contribution would have been withheld from the member's salary to

the date of payment. A member may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. Upon the payment of the increased contributions as provided in this division, the increased annual salary as provided by law for the office for the period for which the member paid increased contributions thereon shall be used in determining the member's earnable salary for the purpose of computing the member's final average salary.

(Z) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and of determining eligibility for benefits under section 145.33 of the Revised Code, means employment covered under this chapter or under a former retirement plan operated, recognized, or endorsed by the employer prior to coverage under this chapter or under a combination of the coverage.

(AA) "Deputy sheriff" means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

(BB) "Township constable or police officer in a township police department or district" means any person who is

commissioned and employed as a full-time peace officer pursuant to Chapter 505. or 509. of the Revised Code, who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

(CC) "Drug agent" means any person who is either of the following:

(1) Employed full time as a narcotics agent by a county narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(DD) "Department of public safety enforcement agent" means a full-time employee of the department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

(EE) "Natural resources law enforcement staff officer" means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(FF) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer under section 1541.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(GG) "Forest officer" means a full-time employee of the department of natural resources who is designated a forest officer

under section 1503.29 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(HH) "Preserve officer" means a full-time employee of the department of natural resources who is designated a preserve officer under section 1517.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(II) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(JJ) "State watercraft officer" means a full-time employee of the department of natural resources who is designated a state watercraft officer under section 1547.521 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(KK) "Park district police officer" means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(LL) "Conservancy district officer" means a full-time employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(MM) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed full time, is in compliance with section 109.77 of the Revised Code, and is not a member of the Ohio police and fire pension fund.

(NN) "Veterans' home police officer" means any person who is employed at a veterans' home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(OO) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section 5119.14 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(PP) "Special police officer for an institution for the mentally retarded and developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(QQ) "State university law enforcement officer" means any person who is employed full time as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code.

(RR) "House sergeant at arms" means any person appointed by the speaker of the house of representatives under division (B)(1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section.

(SS) "Assistant house sergeant at arms" means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code.

(TT) "Regional transit authority police officer" means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(UU) "State highway patrol police officer" means a special police officer employed full time and designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person serving full time as a special police officer pursuant to that section on a permanent basis on October 21, 1997, who is in compliance with section

109.77 of the Revised Code.

(VV) "Municipal public safety director" means a person who serves full time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police department and fire department.

(WW) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer. PERS law enforcement officer also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were to preserve the peace, protect life and property, and enforce the laws of this state.

(XX) "Hamilton county municipal court bailiff" means a person appointed by the clerk of courts of the Hamilton county municipal court under division (A)(3) of section 1901.32 of the Revised Code who is employed full time as a bailiff or deputy bailiff, who has received a certificate attesting to the person's satisfactory completion of the peace officer basic training described in

division (D)(1) of section 109.77 of the Revised Code.

(YY) "PERS public safety officer" means a Hamilton county municipal court bailiff, or any of the following whose primary duties are other than to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer. "PERS public safety officer" also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were other than to preserve the peace, protect life and property, and enforce the laws of this state.

(ZZ) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(AAA) "Actuary" means an individual who satisfies all of the following requirements:

(1) Is a member of the American academy of actuaries;

(2) Is an associate or fellow of the society of actuaries;

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

(BBB) "PERS defined benefit plan" means the plan described in sections 145.201 to 145.79 of the Revised Code.

(CCC) "PERS defined contribution plans" means the plan or plans established under section 145.81 of the Revised Code.

Sec. 145.012. (A) "Public employee," as defined in division (A) of section 145.01 of the Revised Code, does not include any person:

(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;

(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;

(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;

(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;

(5) Who is employed as an election worker and paid less than five hundred dollars per calendar year for that service;

(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:

(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;

(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;

(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.

(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code;

(10) Who is a member of the unemployment compensation advisory council;

(11) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code;

(12) Who is employed by the nonprofit entity established to provide advocacy services and a client assistance program for people with disabilities under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly and whose employment begins on or after October 1, 2012.

(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill or criminally insane operated by the department of mental health, no resident in an institution for the mentally retarded operated by the department of developmental disabilities, no resident admitted as a patient of a veterans' home operated under Chapter 5907. of the Revised Code, and no resident of a county home shall be considered as a public employee for the purpose of establishing membership or calculating service credit or benefits under this chapter. Nothing in this division shall be construed to affect any service credit attained by any person who was a public employee before becoming an inmate, patient, or resident at any institution listed in this division, or the payment of any benefit for which such a person or such a person's beneficiaries otherwise would be eligible.

Sec. 149.43. (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control

sanctions and post-release control sanctions;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, <u>community-based correctional facility employee,</u> youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in

an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;

(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(z) Records listed in section 5101.29 of the Revised Code;

(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(bb) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with

the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation:

(a) The address of the actual personal residence of a peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card

number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and

investigation's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

As used in divisions (A)(7) and (B)(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(5) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job

duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that

person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

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

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

(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if

federal or state law authorizes or requires a public office to make the redaction.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit

or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of

it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen

oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9)(a) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, <u>community-based correctional facility employee,</u> youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, <u>community-based correctional facility employee,</u> youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation and, if the peace officer's, parole officer's, probation officer's, bailiff's,

prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information.

(c) As used in division (B)(9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this

section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(1) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

If a requestor transmits a written request by hand delivery or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requestor shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a

mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(2)(a) If the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with division (B) of this section and determines that the circumstances described in division (C)(1) of this section exist,

the court shall determine and award to the relator all court costs.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney's fees subject to reduction as described in division (C)(2)(c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(c) of this section when either of the following applies:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of

this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it

will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

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

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs

paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Sec. 151.01. (A) As used in sections 151.01 to 151.11 and 151.40 of the Revised Code and in the applicable bond proceedings unless otherwise provided:

(1) "Bond proceedings" means the resolutions, orders, agreements, and credit enhancement facilities, and amendments and supplements to them, or any one or more or combination of them, authorizing, awarding, or providing for the terms and conditions applicable to or providing for the security or liquidity of, the particular obligations, and the provisions contained in those obligations.

(2) "Bond service fund" means the respective bond service fund created by section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, 151.10, 151.11, or 151.40 of the Revised Code, and any accounts in that fund, including all moneys and investments, and earnings from investments, credited and to be credited to that fund and accounts as and to the extent provided in the applicable bond proceedings.

(3) "Capital facilities" means capital facilities or projects as referred to in section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, 151.10, 151.11, or 151.40 of the Revised Code.

(4) "Costs of capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing capital facilities, and of the financing of those costs. "Costs of capital facilities" includes, without limitation, and in addition to costs referred to in section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, 151.10, 151.11, or 151.40 of the Revised Code, the cost of clearance and preparation of the site and of any land to be used in connection with capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the issuing authority, costs of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, financing costs, interest on obligations, including but not limited to, interest

from ~~their~~ the date of their issuance to the time when interest is to be paid from sources other than proceeds of obligations, amounts necessary to establish any reserves as required by the bond proceedings, the reimbursement of all moneys advanced or applied by or borrowed from any person or governmental agency or entity for the payment of any item of costs of capital facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to capital facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of capital facilities, the financing of those costs, and the placing of the capital facilities in use and operation, including any one, part of, or combination of those classes of costs and expenses. For purposes of sections 122.085 to 122.0820 of the Revised Code, "costs of capital facilities" includes "allowable costs" as defined in section 122.085 of the Revised Code.

(5) "Credit enhancement facilities," "financing costs," and "interest" or "interest equivalent" have the same meanings as in section 133.01 of the Revised Code.

(6) "Debt service" means principal, including any mandatory sinking fund or redemption requirements for retirement of obligations, interest and other accreted amounts, interest equivalent, and any redemption premium, payable on obligations. If not prohibited by the applicable bond proceedings, debt service may include costs relating to credit enhancement facilities that are related to and represent, or are intended to provide a source of payment of or limitation on, other debt service.

(7) "Issuing authority" means the Ohio public facilities commission created in section 151.02 of the Revised Code for obligations issued under section 151.03, 151.04, 151.05, 151.07,

151.08, 151.09, 151.10, or 151.11 of the Revised Code, or the treasurer of state, or the officer who by law performs the functions of that office, for obligations issued under section 151.06 or 151.40 of the Revised Code.

(8) "Net proceeds" means amounts received from the sale of obligations, excluding amounts used to refund or retire outstanding obligations, amounts required to be deposited into special funds pursuant to the applicable bond proceedings, and amounts to be used to pay financing costs.

(9) "Obligations" means bonds, notes, or other evidences of obligation of the state, including any appertaining interest coupons, issued under Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15 of Article VIII, Ohio Constitution, and pursuant to sections 151.01 to 151.11 or 151.40 of the Revised Code or other general assembly authorization.

(10) "Principal amount" means the aggregate of the amount as stated or provided for in the applicable bond proceedings as the amount on which interest or interest equivalent on particular obligations is initially calculated. Principal amount does not include any premium paid to the state by the initial purchaser of the obligations. "Principal amount" of a capital appreciation bond, as defined in division (C) of section 3334.01 of the Revised Code, means its face amount, and "principal amount" of a zero coupon bond, as defined in division (J) of section 3334.01 of the Revised Code, means the discounted offering price at which the bond is initially sold to the public, disregarding any purchase price discount to the original purchaser, if provided for pursuant to the bond proceedings.

(11) "Special funds" or "funds," unless the context indicates otherwise, means the bond service fund, and any other funds, including any reserve funds, created under the bond proceedings and stated to be special funds in those proceedings, including

moneys and investments, and earnings from investments, credited and to be credited to the particular fund. Special funds do not include the school building program assistance fund created by section 3318.25 of the Revised Code, the higher education improvement fund created by division (F) of section 154.21 of the Revised Code, the higher education improvement taxable fund created by division (G) of section 154.21 of the Revised Code, the highway capital improvement bond fund created by section 5528.53 of the Revised Code, the state parks and natural resources fund created by section 1557.02 of the Revised Code, the coal research and development fund created by section 1555.15 of the Revised Code, the clean Ohio conservation fund created by section 164.27 of the Revised Code, the clean Ohio revitalization fund created by section 122.658 of the Revised Code, the job ready site development fund created by section 122.0820 of the Revised Code, the third frontier research and development fund created by section 184.19 of the Revised Code, the third frontier research and development taxable bond fund created by section 184.191 of the Revised Code, or other funds created by the bond proceedings that are not stated by those proceedings to be special funds.

(B) Subject to Section 2l, 2m, 2n, 2o, 2p, 2q, or 15, and Section 17, of Article VIII, Ohio Constitution, the state, by the issuing authority, is authorized to issue and sell, as provided in sections 151.03 to 151.11 or 151.40 of the Revised Code, and in respective aggregate principal amounts as from time to time provided or authorized by the general assembly, general obligations of this state for the purpose of paying costs of capital facilities or projects identified by or pursuant to general assembly action.

(C) Each issue of obligations shall be authorized by resolution or order of the issuing authority. The bond proceedings shall provide for or authorize the manner for determining the

principal amount or maximum principal amount of obligations of an issue, the principal maturity or maturities, the interest rate or rates, the date of and the dates of payment of interest on the obligations, their denominations, and the place or places of payment of debt service which may be within or outside the state. Unless otherwise provided by law, the latest principal maturity may not be later than the earlier of the thirty-first day of December of the twenty-fifth calendar year after the year of issuance of the particular obligations or of the twenty-fifth calendar year after the year in which the original obligation to pay was issued or entered into. Sections 9.96, 9.98, 9.981, 9.982, and 9.983 of the Revised Code apply to obligations. The purpose of the obligations may be stated in the bond proceedings in general terms, such as, as applicable, "financing or assisting in the financing of projects as provided in Section 2l of Article VIII, Ohio Constitution," "financing or assisting in the financing of highway capital improvement projects as provided in Section 2m of Article VIII, Ohio Constitution," "paying costs of capital facilities for a system of common schools throughout the state as authorized by Section 2n of Article VIII, Ohio Constitution," "paying costs of capital facilities for state-supported and state-assisted institutions of higher education as authorized by Section 2n of Article VIII, Ohio Constitution," "paying costs of coal research and development as authorized by Section 15 of Article VIII, Ohio Constitution," "financing or assisting in the financing of local subdivision capital improvement projects as authorized by Section 2m of Article VIII, Ohio Constitution," "paying costs of conservation projects as authorized by Sections 2o and 2q of Article VIII, Ohio Constitution," "paying costs of revitalization projects as authorized by Sections 2o and 2q of Article VIII, Ohio Constitution," "paying costs of preparing sites for industry, commerce, distribution, or research and development as authorized by Section 2p of Article VIII, Ohio Constitution,"

or "paying costs of research and development as authorized by Section 2p of Article VIII, Ohio Constitution."

(D) The issuing authority may appoint or provide for the appointment of paying agents, bond registrars, securities depositories, clearing corporations, and transfer agents, and may without need for any other approval retain or contract for the services of underwriters, investment bankers, financial advisers, accounting experts, marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the judgment of the issuing authority to carry out the issuing authority's functions under this chapter. When the issuing authority is the Ohio public facilities commission, the issuing authority also may without need for any other approval retain or contract for the services of attorneys and other professionals for that purpose. Financing costs are payable, as may be provided in the bond proceedings, from the proceeds of the obligations, from special funds, or from other moneys available for the purpose.

(E) The bond proceedings may contain additional provisions customary or appropriate to the financing or to the obligations or to particular obligations including, but not limited to, provisions for:

(1) The redemption of obligations prior to maturity at the option of the state or of the holder or upon the occurrence of certain conditions, and at particular price or prices and under particular terms and conditions;

(2) The form of and other terms of the obligations;

(3) The establishment, deposit, investment, and application of special funds, and the safeguarding of moneys on hand or on deposit, in lieu of the applicability of provisions of Chapter 131. or 135. of the Revised Code, but subject to any special

provisions of sections 151.01 to 151.11 or 151.40 of the Revised Code with respect to the application of particular funds or moneys. Any financial institution that acts as a depository of any moneys in special funds or other funds under the bond proceedings may furnish indemnifying bonds or pledge securities as required by the issuing authority.

(4) Any or every provision of the bond proceedings being binding upon the issuing authority and upon such governmental agency or entity, officer, board, commission, authority, agency, department, institution, district, or other person or body as may from time to time be authorized to take actions as may be necessary to perform all or any part of the duty required by the provision;

(5) The maintenance of each pledge or instrument comprising part of the bond proceedings until the state has fully paid or provided for the payment of the debt service on the obligations or met other stated conditions;

(6) In the event of default in any payments required to be made by the bond proceedings, or by any other agreement of the issuing authority made as part of a contract under which the obligations were issued or secured, including a credit enhancement facility, the enforcement of those payments by mandamus, a suit in equity, an action at law, or any combination of those remedial actions;

(7) The rights and remedies of the holders or owners of obligations or of book-entry interests in them, and of third parties under any credit enhancement facility, and provisions for protecting and enforcing those rights and remedies, including limitations on rights of individual holders or owners;

(8) The replacement of mutilated, destroyed, lost, or stolen obligations;

(9) The funding, refunding, or advance refunding, or other provision for payment, of obligations that will then no longer be outstanding for purposes of this section or of the applicable bond proceedings;

(10) Amendment of the bond proceedings;

(11) Any other or additional agreements with the owners of obligations, and such other provisions as the issuing authority determines, including limitations, conditions, or qualifications, relating to any of the foregoing.

(F) The great seal of the state or a facsimile of it may be affixed to or printed on the obligations. The obligations requiring execution by or for the issuing authority shall be signed as provided in the bond proceedings. Any obligations may be signed by the individual who on the date of execution is the authorized signer although on the date of these obligations that individual is not an authorized signer. In case the individual whose signature or facsimile signature appears on any obligation ceases to be an authorized signer before delivery of the obligation, that signature or facsimile is nevertheless valid and sufficient for all purposes as if that individual had remained the authorized signer until delivery.

(G) Obligations are investment securities under Chapter 1308. of the Revised Code. Obligations may be issued in bearer or in registered form, registrable as to principal alone or as to both principal and interest, or both, or in certificated or uncertificated form, as the issuing authority determines. Provision may be made for the exchange, conversion, or transfer of obligations and for reasonable charges for registration, exchange, conversion, and transfer. Pending preparation of final obligations, the issuing authority may provide for the issuance of interim instruments to be exchanged for the final obligations.

(H) Obligations may be sold at public sale or at private sale, in such manner, and at such price at, above or below par, all as determined by and provided by the issuing authority in the bond proceedings.

(I) Except to the extent that rights are restricted by the bond proceedings, any owner of obligations or provider of a credit enhancement facility may by any suitable form of legal proceedings protect and enforce any rights relating to obligations or that facility under the laws of this state or granted by the bond proceedings. Those rights include the right to compel the performance of all applicable duties of the issuing authority and the state. Each duty of the issuing authority and that authority's officers, staff, and employees, and of each state entity or agency, or using district or using institution, and its officers, members, staff, or employees, undertaken pursuant to the bond proceedings, is hereby established as a duty of the entity or individual having authority to perform that duty, specifically enjoined by law and resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The individuals who are from time to time the issuing authority, members or officers of the issuing authority, or those members' designees acting pursuant to section 151.02 of the Revised Code, or the issuing authority's officers, staff, or employees, are not liable in their personal capacities on any obligations or otherwise under the bond proceedings.

(J)(1) Subject to Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15, and Section 17, of Article VIII, Ohio Constitution and sections 151.01 to 151.11 or 151.40 of the Revised Code, the issuing authority may, in addition to the authority referred to in division (B) of this section, authorize and provide for the issuance of:

(a) Obligations in the form of bond anticipation notes, and

may provide for the renewal of those notes from time to time by the issuance of new notes. The holders of notes or appertaining interest coupons have the right to have debt service on those notes paid solely from the moneys and special funds that are or may be pledged to that payment, including the proceeds of bonds or renewal notes or both, as the issuing authority provides in the bond proceedings authorizing the notes. Notes may be additionally secured by covenants of the issuing authority to the effect that the issuing authority and the state will do all things necessary for the issuance of bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide moneys to pay when due the debt service on the notes, and apply their proceeds to the extent necessary, to make full and timely payment of debt service on the notes as provided in the applicable bond proceedings. In the bond proceedings authorizing the issuance of bond anticipation notes the issuing authority shall set forth for the bonds anticipated an estimated schedule of annual principal payments the latest of which shall be no later than provided in division (C) of this section. While the notes are outstanding there shall be deposited, as shall be provided in the bond proceedings for those notes, from the sources authorized for payment of debt service on the bonds, amounts sufficient to pay the principal of the bonds anticipated as set forth in that estimated schedule during the time the notes are outstanding, which amounts shall be used solely to pay the principal of those notes or of the bonds anticipated.

(b) Obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued. Refunding obligations may be issued in amounts sufficient to pay or to provide for repayment of the principal amount, including principal amounts maturing prior to the redemption of the remaining prior obligations, any redemption premium, and

interest accrued or to accrue to the maturity or redemption date or dates, payable on the prior obligations, and related financing costs and any expenses incurred or to be incurred in connection with that issuance and refunding. Subject to the applicable bond proceedings, the portion of the proceeds of the sale of refunding obligations issued under division (J)(1)(b) of this section to be applied to debt service on the prior obligations shall be credited to an appropriate separate account in the bond service fund and held in trust for the purpose by the issuing authority or by a corporate trustee. Obligations authorized under this division shall be considered to be issued for those purposes for which the prior obligations were issued.

(2) Except as otherwise provided in sections 151.01 to 151.11 or 151.40 of the Revised Code, bonds or notes authorized pursuant to division (J) of this section are subject to the provisions of those sections pertaining to obligations generally.

(3) The principal amount of refunding or renewal obligations issued pursuant to division (J) of this section shall be in addition to the amount authorized by the general assembly as referred to in division (B) of the following sections: section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, 151.10, 151.11, or 151.40 of the Revised Code.

(K) Obligations are lawful investments for banks, savings and loan associations, credit union share guaranty corporations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of the state and political subdivisions and taxing districts of this state, the sinking fund, the administrator of workers' compensation subject to the approval of the workers' compensation board, the state teachers retirement system, the public employees retirement system, the school employees

retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant to those provisions by any state agency with respect to investments by them, and are also acceptable as security for the repayment of the deposit of public moneys. The exemptions from taxation in Ohio as provided for in particular sections of the Ohio Constitution and section 5709.76 of the Revised Code apply to the obligations.

(L)(1) Unless otherwise provided or provided for in any applicable bond proceedings, moneys to the credit of or in a special fund shall be disbursed on the order of the issuing authority. No such order is required for the payment, from the bond service fund or other special fund, when due of debt service or required payments under credit enhancement facilities.

(2) Payments received by the state under interest rate hedges entered into as credit enhancement facilities under this chapter shall be deposited to the credit of the bond service fund for the obligations to which those credit enhancement facilities relate.

(M) The full faith and credit, revenue, and taxing power of the state are and shall be pledged to the timely payment of debt service on outstanding obligations as it comes due, all in accordance with Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15 of Article VIII, Ohio Constitution, and section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, 151.10, or 151.11 of the Revised Code. Moneys referred to in Section 5a of Article XII, Ohio Constitution, may not be pledged or used for the payment of debt service except on obligations referred to in section 151.06 of the Revised Code. Net state lottery proceeds, as provided for and referred to in section 3770.06 of the Revised Code, may not be pledged or used for the payment of debt service except on obligations referred to in section 151.03 of the Revised Code. The state covenants, and that covenant shall be controlling

notwithstanding any other provision of law, that the state and the applicable officers and agencies of the state, including the general assembly, shall, so long as any obligations are outstanding in accordance with their terms, maintain statutory authority for and cause to be levied, collected and applied sufficient pledged excises, taxes, and revenues of the state so that the revenues shall be sufficient in amounts to pay debt service when due, to establish and maintain any reserves and other requirements, and to pay financing costs, including costs of or relating to credit enhancement facilities, all as provided for in the bond proceedings. Those excises, taxes, and revenues are and shall be deemed to be levied and collected, in addition to the purposes otherwise provided for by law, to provide for the payment of debt service and financing costs in accordance with sections 151.01 to 151.11 of the Revised Code and the bond proceedings.

(N) The general assembly may from time to time repeal or reduce any excise, tax, or other source of revenue pledged to the payment of the debt service pursuant to Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15 of Article VIII, Ohio Constitution, and sections 151.01 to 151.11 or 151.40 of the Revised Code, and may levy, collect and apply any new or increased excise, tax, or revenue to meet the pledge, to the payment of debt service on outstanding obligations, of the state's full faith and credit, revenue and taxing power, or of designated revenues and receipts, except fees, excises or taxes referred to in Section 5a of Article XII, Ohio Constitution, for other than obligations referred to in section 151.06 of the Revised Code and except net state lottery proceeds for other than obligations referred to in section 151.03 of the Revised Code. Nothing in division (N) of this section authorizes any impairment of the obligation of this state to levy and collect sufficient excises, taxes, and revenues to pay debt service on obligations outstanding in accordance with their terms.

(O) Each bond service fund is a trust fund and is hereby pledged to the payment of debt service on the applicable obligations. Payment of that debt service shall be made or provided for by the issuing authority in accordance with the bond proceedings without necessity for any act of appropriation. The bond proceedings may provide for the establishment of separate accounts in the bond service fund and for the application of those accounts only to debt service on specific obligations, and for other accounts in the bond service fund within the general purposes of that fund.

(P) Subject to the bond proceedings pertaining to any obligations then outstanding in accordance with their terms, the issuing authority may in the bond proceedings pledge all, or such portion as the issuing authority determines, of the moneys in the bond service fund to the payment of debt service on particular obligations, and for the establishment and maintenance of any reserves for payment of particular debt service.

(Q) The issuing authority shall by the fifteenth day of July of each fiscal year, certify or cause to be certified to the office of budget and management the total amount of moneys required during the current fiscal year to meet in full all debt service on the respective obligations and any related financing costs payable from the applicable bond service fund and not from the proceeds of refunding or renewal obligations. The issuing authority shall make or cause to be made supplemental certifications to the office of budget and management for each debt service payment date and at such other times during each fiscal year as may be provided in the bond proceedings or requested by that office. Debt service, costs of credit enhancement facilities, and other financing costs shall be set forth separately in each certification. If and so long as the moneys to the credit of the bond service fund, together with any

other moneys available for the purpose, are insufficient to meet in full all payments when due of the amount required as stated in the certificate or otherwise, the office of budget and management shall at the times as provided in the bond proceedings, and consistent with any particular provisions in sections 151.03 to 151.11 and 151.40 of the Revised Code, transfer a sufficient amount to the bond service fund from the pledged revenues in the case of obligations issued pursuant to section 151.40 of the Revised Code, and in the case of other obligations from the revenues derived from excises, taxes, and other revenues, including net state lottery proceeds in the case of obligations referred to in section 151.03 of the Revised Code.

(R) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of special funds may be invested by or on behalf of the state only in one or more of the following:

(1) Notes, bonds, or other direct obligations of the United States or of any agency or instrumentality of the United States, or in no-front-end-load money market mutual funds consisting exclusively of those obligations, or in repurchase agreements, including those issued by any fiduciary, secured by those obligations, or in collective investment funds consisting exclusively of those obligations;

(2) Obligations of this state or any political subdivision of this state;

(3) Certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions;

(4) The treasurer of state's pooled investment program under section 135.45 of the Revised Code.

The income from investments referred to in division (R) of

this section shall, unless otherwise provided in sections 151.01 to 151.11 or 151.40 of the Revised Code, be credited to special funds or otherwise as the issuing authority determines in the bond proceedings. Those investments may be sold or exchanged at times as the issuing authority determines, provides for, or authorizes.

(S) The treasurer of state shall have responsibility for keeping records, making reports, and making payments, relating to any arbitrage rebate requirements under the applicable bond proceedings.

Sec. 152.18. Whenever the Ohio building authority constructs, reconstructs, rehabilitates, remodels, renovates, enlarges, improves, alters, maintains, equips, furnishes, repairs, paints, or decorates capital facilities pursuant to section 152.19, 152.21, or 152.31 of the Revised Code or buildings, facilities, and other properties for use and occupancy of persons pursuant to section 152.04 of the Revised Code, the authority shall make the necessary plans and specifications, and shall advertise for bids for all work to be placed under contract once a week for two consecutive weeks in a newspaper of general circulation in the county within which the work is to be done, and shall award the contract to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. When the authority determines, subject to approval by the controlling board, that a real and present emergency exists or if the cost of such a contract does not exceed fifty thousand dollars, such a contract may be awarded without advertising and receipt of bids. A bid guaranty pursuant to sections 153.54 to 153.571 of the Revised Code shall be required for any contract under this section.

In all other cases of capital facilities financed by the authority, the construction, reconstruction, ~~rehabilitation, remodeling, renovation,~~ enlargement, improvement, alteration,

~~maintenance, equipping, furnishing,~~ repair, painting, or decoration of capital facilities by or for the state or any governmental entity shall be the responsibility of the ~~department of administrative services~~ Ohio facilities construction commission or, with the consent of the ~~department of administrative services~~ Ohio facilities construction commission, shall be the responsibility of the state agency using the capital facility, or the governmental entity with which a state agency is participating pursuant to section 152.33 of the Revised Code, and shall be undertaken by the ~~department~~ commission in compliance with Chapter 153. of the Revised Code, or by such state agency or governmental entity in accordance with otherwise applicable law. The rehabilitation, remodeling, renovation, maintenance, equipping, or furnishing of capital facilities by or for the state or any governmental entity shall be the responsibility of the department of administrative services or, with the consent of the department, the state agency or other governmental entity that is using the capital facility.

Sec. 152.24. (A) Except as otherwise provided with respect to leasing of capital facilities in sections 152.241, 152.242, 152.31, and 152.33 of the Revised Code, the department of administrative services or, with the consent of the department of administrative services, the state agency using an office facility and related storage and parking facilities, or participating in such facilities pursuant to section 152.33 of the Revised Code, shall lease any office facility and related storage and parking facility acquired, purchased, constructed, reconstructed, rehabilitated, remodeled, renovated, enlarged, improved, altered, operated, maintained, equipped, furnished, repaired, painted, decorated, or financed by the Ohio building authority for housing any state agencies. An agreement between the authority and the department of administrative services or such using or

participating agency may provide for the transfer of the property to the state after bonds and notes issued by the authority for the purpose of the acquisition, purchase, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, alteration, equipping, furnishing, repair, painting, decorating, or financing of such building or facility have been repaid. A lease between the authority and the department of administrative services or a using or participating agency shall be for a period not exceeding the then current two-year period for which appropriations have been made by the general assembly to the department of administrative services and the state agencies which will occupy or participate in the office facility and related storage and parking facility being leased, and such lease may contain such other terms as the department of administrative services, or a using or participating agency, and the authority agree notwithstanding any other provision of law, including provision that rental payments in amounts at least sufficient to pay bond service charges payable during the current two-year lease term shall be an absolute and unconditional obligation of the department of administrative services, or the using or participating agency, independent of all other duties under the lease without setoff or deduction or any other similar rights or defenses. Such an agreement may provide for renewal of a lease at the end of each term for another term, not exceeding two years, provided that no renewal shall be effective until the effective date of an appropriation enacted by the general assembly from which the department of administrative services, or the using or participating agency, may lawfully pay rentals under such lease. For purposes of this section, the term "lease" may include, without limitation, any agreement between the department of administrative services, or the using or participating agency, and the authority with respect to any costs of capital facilities to be incurred prior to land acquisition.

(B) If the director of administrative services or the director of a state agency using or participating in an office facility and related storage and parking facility certifies that space in such facility acquired, purchased, constructed, reconstructed, rehabilitated, remodeled, renovated, enlarged, improved, altered, operated, maintained, equipped, furnished, repaired, painted, decorated, or financed by the authority has become unnecessary for state use, the authority may lease any excess space in such facility and related storage and parking facility to any governmental entity.

(C) If space in any office facility leased by the authority to the department of administrative services is not immediately necessary for state use, the department of administrative services may exercise its authority under division (A)~~(9)~~(5) of section 123.01 of the Revised Code with respect to such space.

(D) Capital facilities acquired, purchased, constructed, reconstructed, rehabilitated, remodeled, renovated, enlarged, improved, altered, operated, maintained, equipped, furnished, repaired, painted, decorated, or financed by the Ohio building authority, other than any office facility and related storage and parking facility required to be leased pursuant to division (A) of this section, shall be leased to the department of administrative services, the state agency using the capital facilities, or the state agency participating in the capital facilities pursuant to section 152.33 of the Revised Code. The department of administrative services or the using or participating state agency may sublease such capital facilities to other state agencies or other governmental entities. Such parties, including other state agencies or state-supported or state-assisted institutions of higher education, may make other agreements for the use, construction, or operation of such capital facilities in any manner permitted by the lease or agreement with the authority and

for the charging, collection, and deposit of such revenues and receipts of the using or participating state agency constituting available receipts, all upon such terms and conditions as the parties may agree upon and pursuant to this chapter notwithstanding other provisions of law affecting the leasing, acquisition, operation, or disposition of capital facilities by such parties. Any such lease between the authority and the department of administrative services or a using or participating state agency shall be for a period not to exceed the then current two-year period for which appropriations have been made by the general assembly to the department of administrative services or such using or participating state agency. The lease between the authority and the department of administrative services or the using or participating state agency may provide for renewal of the lease at the end of each term for another term, not exceeding two years, but no renewal shall be effective until the effective date of an appropriation enacted by the general assembly from which the department of administrative services or the using or participating state agency may lawfully pay rentals under such lease. Any such leases, subleases, or agreements may set forth the responsibilities of the authority, state agencies, state-supported, or state-assisted institutions of higher education, or other governmental entities as to the financing, assessment, planning, acquisition, purchase, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, alteration, subleasing, management, operation, maintenance, equipping, furnishing, repair, painting, decorating, and insuring of such capital facilities and other terms and conditions applicable thereto, and any other provisions mutually agreed upon for the purposes of this chapter. Promptly upon execution thereof, a signed or conformed copy of each such lease or sublease or agreement, and any supplement thereto, between the authority and a governmental entity shall be filed by

the authority with the department of administrative services and the director of budget and management, and, promptly upon execution thereof, a signed or conformed copy of each such sublease or agreement between two governmental entities, not including the authority, shall be filed with the authority and the director of budget and management. For purposes of this section, the term "lease" may include, without limitation, any agreement between the department of administrative services or the state agency using or participating in such capital facilities and the authority with respect to any costs of capital facilities to be incurred prior to land acquisition.

(E) The transfer of tangible personal property by lease under authority of this chapter is not a sale as used in Chapter 5739. of the Revised Code. Any agreement of a governmental entity to make rental, use, or other payments or payment of purchase price, in installments or otherwise, or repayments to or on account of the authority and the obligations issued by the authority, shall not be deemed to constitute indebtedness, bonded or otherwise, or bonds, notes, or other evidence of indebtedness of such governmental entity for the purpose of Chapter 133. of the Revised Code or any other purpose; such leases and agreements requiring payments beyond the current fiscal year are continuing contracts for the purposes of sections 5705.41 and 5705.44 of the Revised Code.

(F) Any agreement between the department of administrative services or the state agency using or participating in such capital facilities and the authority that includes provision for the use of space by such using or participating state agency or the department of administrative services, even if executed prior to land acquisition or completion of construction, improvements, or financing, shall be a lease for purposes of this chapter and for all other purposes. No such lease need be recorded or

recordable for purposes of determining its validity or legal sufficiency.

Sec. 153.01. (A) Whenever any building or structure for the use of the state or any institution supported in whole or in part by the state or in or upon the public works of the state that is administered by the ~~director of administrative services~~ Ohio facilities construction commission or by any other state officer or state agency authorized by law to administer a project, including an educational institution listed in section 3345.50 of the Revised Code, is to be erected or constructed, whenever additions, alterations, or structural or other improvements are to be made, or whenever heating, cooling, or ventilating plants or other equipment is to be installed or material supplied therefor, the estimated cost of which amounts to two hundred thousand dollars or more, or the amount determined pursuant to section 153.53 of the Revised Code or more, each officer, board, or other authority upon which devolves the duty of constructing, erecting, altering, or installing the same, referred to in sections 153.01 to 153.60 of the Revised Code as the public authority, shall cause to be made, by an architect or engineer whose contract of employment shall be prepared and approved by the attorney general, the following:

(1) Full and accurate plans, suitable for the use of mechanics and other builders in the construction, improvement, addition, alteration, or installation;

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

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

(4) A full and accurate estimate of each item of expense and the aggregate cost of those items of expense;

(5) A life-cycle cost analysis;

(6) Further data as may be required by the ~~department of administrative services~~ Ohio facilities construction commission.

(B) Division (A) of this section shall not be required with respect to a construction management contract entered into with a construction manager at risk as described in section 9.334 of the Revised Code or a design-build contract entered into with a design-build firm as described in section 153.693 of the Revised Code. No such construction management contract or design-build contract shall be entered into until the contract and bond, if any, are submitted to the attorney general and the attorney general's approval certified thereon.

Sec. 153.011. (A) Except as provided in division (D) of this section, whenever any building or structure, including highway improvements, in whole or in part supported by state capital funds, including moneys from the education facilities trust fund, is to be erected or constructed, or whenever additions, alterations, or structural or other improvements are to be made, if any steel products are to be purchased for or provided in the construction, repair, or improvement project, only steel products as defined in division (F) of this section shall be purchased for or provided in the project.

(B)(1) No person shall purchase or provide steel products in violation of division (A) of this section.

(2) Notwithstanding division (B) of section 153.99 of the Revised Code, no person who purchases steel products in violation of division (A) of this section shall be held liable in a civil action commenced under division (C) of this section, or pay a

civil penalty under division (B) of section 153.99 of the Revised Code, if that person can demonstrate the person's compliance with division (E) of this section.

(C) Whenever the executive director of ~~administrative services~~ the Ohio facilities construction commission has reasonable cause to believe that any person has purchased or provided steel products in violation of division (A) of this section, the executive director shall conduct an investigation to determine whether the person has purchased or provided or is purchasing or providing steel products in violation of division (A) of this section. Upon conducting the investigation, if the executive director finds that the person has purchased or provided or is purchasing or providing steel products in violation of division (A) of this section, the executive director shall request the attorney general to commence a civil action under this section against the person for violating division (A) of this section. The remedy provided in this section is concurrent with any other remedy provided in this chapter, and the existence or exercise of one remedy does not prevent the exercise of any other. Upon collection of the civil penalty under division (B) of section 153.99 of the Revised Code, pursuant to an action authorized under this section, the attorney general shall pay the money collected to the treasurer of the board of education of the city, local, or exempted village school district and joint vocational school district, if one exists, in which the construction, repair, or improvement project for which the steel products used in violation of division (A) of this section is located. The treasurer shall deposit the civil penalty in equal amounts into the school district's general fund and the joint vocational school district's general fund. If a joint vocational school district does not exist where the violation occurred, then the entire sum of the civil penalty shall be deposited into the school district's general fund.

(D) Pursuant to section 5525.21 of the Revised Code, the director of transportation may authorize the purchase or provision or both of a minimal amount of foreign steel products for use in contracts for public bridge projects.

The executive director of ~~administrative services~~ the Ohio facilities construction commission may waive the requirements of division (A) of this section if the executive director determines that either division (A) or (B) of section 5525.21 of the Revised Code is true in connection with a public bridge project. The executive director shall issue this determination in writing.

(E) The following notice shall be included in boldface type and capital letters in all bid notifications and specifications between all parties to any contract authorized under Chapter 153. of the Revised Code or subject to this section and section 153.99 of the Revised Code: "Domestic steel use requirements as specified in section 153.011 of the Revised Code apply to this project. Copies of section 153.011 of the Revised Code can be obtained from ~~any of~~ the ~~offices~~ office of the ~~department of administrative services~~ Ohio facilities construction commission."

(F) As used in this section:

(1) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, and used for load-bearing structural purposes, from steel made in the United States by the open hearth, basic oxygen, electric furnace, bessemer or other steel making process.

(2) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

Sec. 153.013. If a project for the construction, alteration,

or other improvement of a building or structure is administered by the executive director of ~~administrative services~~ the Ohio facilities construction commission or by another state agency authorized to administer a project under this chapter, if the project is located in a municipal corporation with a population of at least four hundred thousand that is in a county with a population of at least one million two hundred thousand, and if a political subdivision contributes at least one hundred thousand dollars to the project, then a contractor for the project shall comply with regulations or ordinances of the political subdivision that are in effect before July 1, 2009, and that specifically relate to the employment of residents and local businesses of the political subdivision in the performance of the work of the project, and such ordinances or regulations shall be included by reference unambiguously in the contract between the administering state agency and the contractor for the project.

Sec. 153.02. (A) The executive director of ~~administrative services, on the director's own initiative or upon request of~~ the Ohio ~~school~~ facilities construction commission, may debar a contractor from contract awards for public improvements as referred to in section 153.01 of the Revised Code or for projects as defined in section 3318.01 of the Revised Code, upon proof that the contractor has done any of the following:

(1) Defaulted on a contract requiring the execution of a takeover agreement as set forth in division (B) of section 153.17 of the Revised Code;

(2) Knowingly failed during the course of a contract to maintain the coverage required by the bureau of workers' compensation;

(3) Knowingly failed during the course of a contract to

maintain the contractor's drug-free workplace program as required by the contract;

(4) Knowingly failed during the course of a contract to maintain insurance required by the contract or otherwise by law, resulting in a substantial loss to the owner, as owner is referred to in section 153.01 of the Revised Code, or to the commission and school district board, as provided in division (F) of section 3318.08 of the Revised Code;

(5) Misrepresented the firm's qualifications in the selection process set forth in sections 153.65 to 153.71 or section 3318.10 of the Revised Code;

(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the contractor's business integrity;

(7) Been convicted of a criminal offense under state or federal antitrust laws;

(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;

(9) Been debarred from bidding on or participating in a contract with any state or federal agency.

(B) When the executive director reasonably believes that grounds for debarment exist, the executive director shall send the contractor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the contractor does not respond with a request for a hearing in the

manner specified in Chapter 119. of the Revised Code, the executive director shall issue the debarment decision without a hearing and shall notify the contractor of the decision by certified mail, return receipt requested.

(C) The executive director shall determine the length of the debarment period and may rescind the debarment at any time upon notification to the contractor. During the period of debarment, the contractor is not eligible to bid for or participate in any contract for a public improvement as referred to in section 153.01 of the Revised Code or for a project as defined in section 3318.01 of the Revised Code. After the debarment period expires, the contractor shall be eligible to bid for and participate in such contracts.

(D) The executive director~~, through the office of the state architect,~~ shall maintain a list of all contractors currently debarred under this section. Any governmental entity awarding a contract for construction of a public improvement or project may use a contractor's presence on the debarment list to determine whether a contractor is responsible or best under section 9.312 or any other section of the Revised Code in the award of a contract.

Sec. 153.04. The plans, details, bills of material, specifications of work, estimates of cost in detail and in the aggregate, life-cycle cost analysis, form of bid, bid guaranty, and other data that may be required shall be prepared on such material and in such manner and form as are prescribed by the ~~department of administrative services~~ Ohio facilities construction commission. The life-cycle costs shall be a primary consideration in the selection of a design. The same shall be deposited and safely kept in the office of the owner as defined in section 153.01 of the Revised Code as the property of the state.

Sec. 153.06. After the proceedings required by sections 153.01 and 153.04 of the Revised Code have been complied with, the owner referred to in section 153.01 of the Revised Code shall give public notice of the time and place when and where bids will be received for performing the labor and furnishing the materials of such construction, improvement, alteration, addition, or installation, and a contract awarded, except for materials manufactured by the state or labor supplied by a county department of job and family services that may enter into the same. The form of bid approved by the ~~department of administrative services~~ Ohio facilities construction commission shall be used, and a bid shall be invalid and not considered unless such form is used without change, alteration, or addition. Bidders may be permitted to bid upon all the branches of work and materials to be furnished and supplied, or upon any thereof, or alternately upon all or any thereof.

Sec. 153.07. The notice provided for in section 153.06 of the Revised Code shall be published once each week for three consecutive weeks in a newspaper of general circulation, or as provided in section 7.16 of the Revised Code, in the county where the activity for which bids are submitted is to occur and in such other newspapers as ordered by the ~~department of administrative services~~ Ohio facilities construction commission, the last publication to be at least eight days preceding the day for opening the bids, and in such form and with such phraseology as the ~~department~~ commission orders. Copies of the plans, details, estimates of cost, and specifications shall be open to public inspection at all business hours between the day of the first publication and the day for opening the bids, at the office of the ~~department~~ commission where the bids are received, and such other place as may be designated in such notice.

Sec. 153.08. On the day and at the place named in the notice provided for in section 153.06 of the Revised Code, the owner referred to in section 153.01 of the Revised Code shall open the bids and shall publicly, with the assistance of the architect or engineer, immediately proceed to tabulate the bids upon duplicate sheets. The public bid opening may be broadcast by electronic means pursuant to rules established by the ~~director of administrative services~~ Ohio facilities construction commission. A bid shall be invalid and not considered unless a bid guaranty meeting the requirements of section 153.54 of the Revised Code and in the form approved by the ~~department of administrative services~~ commission is filed with such bid. For a bid that is not filed electronically, the bid and bid guaranty shall be filed in one sealed envelope. If the bid and bid guaranty are filed electronically, they must be received electronically before the deadline published pursuant to section 153.06 of the Revised Code. For all bids filed electronically, the original, unaltered bid guaranty shall be made available to the public authority after the public bid opening. After investigation, which shall be completed within thirty days, the contract shall be awarded by such owner to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.

No contract shall be entered into until the industrial commission has certified that the person so awarded the contract has complied with sections 4123.01 to 4123.94 of the Revised Code, until, if the bidder so awarded the contract is a foreign corporation, the secretary of state has certified that such corporation is authorized to do business in this state, until, if the bidder so awarded the contract is a person nonresident of this state, such person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought

under section 153.05 of the Revised Code or under sections 4123.01 to 4123.94 of the Revised Code, and until the contract and bond, if any, are submitted to the attorney general and the attorney general's approval certified thereon.

No contract shall be entered into unless the bidder possesses a valid certificate of compliance with affirmative action programs issued pursuant to section 9.47 of the Revised Code and dated no earlier than one hundred eighty days prior to the date fixed for the opening of bids for a particular project.

Sec. 153.09. If in the opinion of the owner referred to in section 153.01 of the Revised Code, the award of a contract to the lowest responsive and responsible bidder is not in the best interests of the state, the owner may accept another bid so opened or reject all bids, and advertise for other bids. Such advertisement shall be for such time, in such form, and in such newspaper as the ~~department~~ Ohio facilities construction commission directs. All contracts shall provide that such owner may make any change in work or materials on the conditions and in the manner provided in sections 153.10 and 153.11 of the Revised Code.

Sec. 153.11. Whenever the change referred to in section 153.10 of the Revised Code is approved by the owner as defined in section 153.01 of the Revised Code, accepted in writing by the contractor, and filed, the same shall be considered as being a part of the original contract, and the bond theretofore executed shall be ~~held~~ increased or decreased accordingly to include and cover the ~~same~~ change in the contract.

Sec. 153.12. (A) With respect to award of any contract for the construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of a public

improvement made by the state, or any county, township, municipal corporation, school district, or other political subdivision, or any public board, commission, authority, instrumentality, or special purpose district of or in the state or a political subdivision or that is authorized by state law, the award, and execution of the contract, shall be made within sixty days after the date on which the bids are opened. The failure to award and execute the contract within sixty days invalidates the entire bid proceedings and all bids submitted, unless the time for awarding and executing the contract is extended by mutual consent of the owner or its representatives and the bidder whose bid the owner accepts and with respect to whom the owner subsequently awards and executes a contract. The public owners referred to in this section shall include, in the plans and specifications for the project for which bids are solicited, the estimate of cost. The bid for which the award is to be made shall be opened at the time and place named in the advertisement for bids, unless extended by the owner or its representative or unless, within seventy-two hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays, any modification of the plans or specifications and estimates of cost for the project for which bids are solicited is issued and mailed or otherwise furnished to persons who have obtained plans or specifications for the project, for which the time for opening of bids shall be extended one week, with no further advertising of bids required. The contractor, upon request, is entitled to a notice to proceed with the work by the owner or its representative upon execution of the contract. No contract to which this section applies shall be entered into if the price of the contract, or, if the project involves multiple contracts where the total price of all contracts for the project, is in excess of ten per cent above the entire estimate thereof, nor shall the entire cost of the construction, reconstruction, repair, painting, decorating, improvement, alteration, addition,

or installation, including changes and estimates of expenses for architects or engineers, exceed in the aggregate the amount authorized by law.

The unit or lump sum price stated in the contract shall be used in determining the amount to be paid and shall constitute full and final compensation for all the work.

Partial payment to the contractor for work performed under the lump sum price shall be based on a schedule prepared by the contractor and approved by the architect or engineer who shall apportion the lump sum price to the major components entering into or forming a part of the work under the lump sum price.

Partial payments to the contractor for labor performed under either a unit or lump sum price contract shall be made at the rate of ninety-two per cent of the estimates prepared by the contractor and approved by the architect or engineer. All labor performed after the job is fifty per cent completed shall be paid for at the rate of one hundred per cent of the estimates submitted by the contractor and approved by the architect or engineer.

The amounts and time of payments of any public improvements contract made by the state or any county, township, municipal corporation, school district, or other political subdivision, or any public board, commission, authority, instrumentality, or special purpose district of or in the state or a political subdivision or that is authorized by state law, except as provided in section 5525.19 of the Revised Code, shall be governed by this section and sections 153.13 and 153.14 of the Revised Code. If the time for awarding the contract is extended by mutual consent, or if the owner or its representative fails to issue a timely notice to proceed as required by this section, the owner or its representative shall issue a change order authorizing delay costs to the contractor, which does not invalidate the contract. The amount of such a change order to the owner shall be determined in

accordance with the provisions of the contract for change orders or force accounts or, if no such provision is set forth in the contract, the cost to the owner shall be the contractor's actual costs including wages, labor costs other than wages, wage taxes, materials, equipment costs and rentals, insurance, and subcontracts attributable to the delay, plus a reasonable sum for overhead. In the event of a dispute between the owner and the contractor concerning such change order, procedures shall be commenced under the applicable terms of the contract, or, if the contract contains no provision for resolving the dispute, it shall be resolved pursuant to the procedures for arbitration in Chapter 2711. of the Revised Code, except as provided in division (B) of this section. Nothing in this division shall be construed as a limitation upon the authority of the director of transportation granted in Chapter 5525. of the Revised Code.

(B) If a dispute arises between the state and a contractor concerning the terms of a public improvement contract let by the state or concerning a breach of the contract, and after administrative remedies provided for in such contract and any alternative dispute resolution procedures provided in accordance with guidelines established by the executive director of ~~administrative services~~ the Ohio facilities construction commission are exhausted, the contractor may bring an action to the court of claims in accordance with Chapter 2743. of the Revised Code. The state or the contractor may request the chief justice of the supreme court to appoint a referee or panel of referees in accordance with division (C)(3) of section 2743.03 of the Revised Code. As used in this division, "dispute" means a disagreement between the state and the contractor concerning a public improvement contract let by the state.

Sec. 153.14. For the construction of those projects, improvements, and public buildings over which the ~~director of~~

~~administrative services~~ Ohio facilities construction commission has general supervision pursuant to section ~~123.01~~ 123.21 of the Revised Code, the estimates referred to in section 153.13 of the Revised Code shall be filed with the executive director by the owner referred to in section 153.01 or 153.12 of the Revised Code. Upon completion of a project referred to in section 153.13 of the Revised Code or any divisible part thereof, the maintenance and repair of such project or divisible part shall be assumed by the owner referred to in section 153.01 or 153.12 of the Revised Code.

In addition to all other payments on account of work performed, there shall be allowed by the owner referred to in section 153.01 or 153.12 of the Revised Code and paid to the contractor a sum at the rate of ninety-two per cent of the invoice costs, not to exceed the bid price in a unit price contract, of material delivered on the site of the work, or a railroad station, siding, or other point in the vicinity of the work, or other approved storage site, provided such materials have been inspected and found to meet the specifications. The balance of such invoiced value shall be paid when such material is incorporated into and becomes a part of such building, construction, addition, improvement, alteration, or installation. When an estimate is allowed on account of material delivered on the site of the work or in the vicinity thereof or under the possession and control of the contractor but not yet incorporated therein, such material shall become the property of the owner under the contract, but if such material is stolen, destroyed, or damaged by casualty before being used, the contractor shall be required to replace it at ~~his~~ the contractor's own expense.

When the rate of work and amounts involved are so large that it is considered advisable by the owner or contractor, estimates and payments shall be made twice each month.

Payment on approved estimates filed with the owner or its

representative shall be made within thirty days. Upon the failure of the owner or its representative to make such payments within thirty days, or upon an unauthorized withholding of retainage, there shall be allowed to the contractor, in addition to any other remedies allowed by law, interest on such moneys not paid within thirty days. Interest on the unauthorized withholding of retainage shall be in addition to any interest earned in the escrow account set forth in section 153.13 of the Revised Code. The rate of such interest shall be the average of the prime rate established at the commercial banks in the city of over one hundred thousand population that is nearest the construction project. Nothing in this section shall be construed as a limitation upon the authority of the director of transportation granted in Chapter 5525. of the Revised Code.

Sec. 153.16. (A) The executive director of ~~administrative services~~ the Ohio facilities construction commission shall establish policy and procedure guidelines for contract documents in conjunction with the administration of public works contracts that the state or any institution supported in whole or in part by the state enters into for any project subject to sections 153.01 to 153.11 of the Revised Code.

(B) Notwithstanding any contract provision to the contrary, any claim submitted under a public works contract that the state or any institution supported in whole or in part by the state enters into for any project subject to sections 153.01 to 153.11 of the Revised Code shall be resolved within one hundred twenty days. After the end of this one hundred twenty-day period, the contractor shall be deemed to have exhausted all administrative remedies for purposes of division (B) of section 153.12 of the Revised Code.

Sec. 153.17. (A) When in the opinion of the owner referred to

in section 153.01 of the Revised Code, the work under any contract made under any law of the state is neglected by the contractor or such work is not prosecuted with the diligence and force specified or intended in the contract, such owner may make requisition upon the contractor for such additional specific force or materials to be brought into the work under such contract or to remove improper materials from the grounds as in their judgment the contract and its faithful fulfillment requires.

Not less than five days' notice in writing of such action shall be served upon the contractor or the contractor's agent in charge of the work. If the contractor fails to comply with such requisition within fifteen days, such owner with the written consent of the ~~department of administrative services~~ Ohio facilities construction commission, may employ upon the work the additional force, or supply the special materials or such part of either as is considered proper, and may remove improper materials from the grounds.

(B) When the original contractor has defaulted on a contract and the surety has declined to take over the project, the owner may contract with one or more takeover contractors to complete work that was not finished because of the default of the original contractor. The owner may enter into a contract with a takeover contractor without competitive bidding or controlling board approval. Upon execution of a takeover contract, the owner shall notify the director of budget and management.

When the owner has taken over a project after a default has occurred, any moneys that the owner receives from the surety as a settlement for completion of the project shall be deposited in the original fund from which the capital appropriation for the project was made. The executive director, without controlling board approval, may authorize specified additional uses for the moneys related to completion of the project and may increase the

appropriation authority in the appropriation line item used to fund the project by an amount equal to the moneys received from the surety.

Sec. 153.502. (A) Each construction manager at risk and design-build firm shall establish criteria by which it will prequalify prospective bidders on subcontracts awarded for work to be performed under the construction management or design-build contract. The criteria established by a construction manager at risk or design-build firm shall be subject to the approval of the public authority involved in the project and shall be consistent with the rules adopted by the ~~department of administrative services~~ Ohio facilities construction commission pursuant to section 153.503 of the Revised Code.

(B) For each subcontract to be awarded, the construction manager at risk or design-build firm shall identify at least three prospective bidders that are prequalified to bid on that subcontract, except that the construction manager at risk or design-build firm shall identify fewer than three if the construction manager at risk or design-build firm establishes to the satisfaction of the public authority that fewer than three prequalified bidders are available. The public authority shall verify that each prospective bidder meets the prequalification criteria and may eliminate any bidder it determines is not qualified.

(C) Once the prospective bidders are prequalified and found acceptable by the public authority, the construction manager at risk or design-build firm shall solicit proposals from each of those bidders. The solicitation and selection of a subcontractor shall be conducted under an open book pricing method. As used in this division, "open book pricing method" has the same meaning as in section 9.33 of the Revised Code, in the case of a construction

manager at risk, and the same meaning as in section 153.65 of the Revised Code, in the case of a design-build firm.

(D) A construction manager at risk or design-build firm shall not be required to award a subcontract to a low bidder.

Sec. 153.503. The ~~department of administrative services~~ Ohio facilities construction commission, pursuant to Chapter 119. of the Revised Code ~~and not later than June 30, 2012~~, shall adopt rules to do all of the following:

(A) Prescribe the procedures and criteria for determining the best value selection of a construction manager at risk or design-build firm;

(B) ~~In consultation with the state architect's office, set~~ Set forth standards to be followed by construction managers at risk and design-build firms when establishing prequalification criteria pursuant to section 153.502 of the Revised Code;

(C) Prescribe the form for the contract documents to be used by a construction manager at risk, design-build firm, or general contractor when entering into a subcontract;

(D) Prescribe the form for the contract documents to be used by a public authority when entering into a contract with a construction manager at risk or design-build firm.

Sec. 153.53. (A) As used in this section, "rate of inflation" has the same meaning as in section 107.032 of the Revised Code.

(B) Five years after ~~the effective date of this section~~ September 29, 2011, and every five years thereafter, the executive director of ~~administrative services~~ the Ohio facilities construction commission shall evaluate the monetary threshold specified in section 153.01 of the Revised Code and adopt rules

adjusting that amount based on the average rate of inflation during each of the previous five years immediately preceding such adjustment.

Sec. 154.01. As used in this chapter:

(A) "Commission" means the Ohio public facilities commission created in section 151.02 of the Revised Code.

(B) "Obligations" means bonds, notes, or other evidences of obligation, including interest coupons pertaining thereto, issued pursuant to Chapter 154. of the Revised Code.

(C) "Bond proceedings" means the order or orders, resolution or resolutions, trust agreement, indenture, lease, and other agreements, amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security of, obligations issued pursuant to Chapter 154. of the Revised Code, and the provisions contained in such obligations.

(D) "State agencies" means the state of Ohio and officers, boards, commissions, departments, divisions, or other units or agencies of the state.

(E) "Governmental agency" means state agencies, state supported and assisted institutions of higher education, municipal corporations, counties, townships, school districts, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or any department, division, or agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(F) "Institutions of higher education" and "state supported or state assisted institutions of higher education" means the

state universities identified in section 3345.011 of the Revised Code, the northeast Ohio medical university, state universities or colleges at any time created, community college districts, university branch districts, and technical college districts at any time established or operating under Chapter 3354., 3355., or 3357. of the Revised Code, and other institutions for education, including technical education, beyond the high school, receiving state support or assistance for their expenses of operation.

(G) "Governing body" means:

(1) In the case of institutions of higher education, the board of trustees, board of directors, commission, or other body vested by law with the general management, conduct, and control of one or more institutions of higher education;

(2) In the case of a county, the board of county commissioners or other legislative body; in the case of a municipal corporation, the council or other legislative body; in the case of a township, the board of township trustees; in the case of a school district, the board of education;

(3) In the case of any other governmental agency, the officer, board, commission, authority or other body having the general management thereof or having jurisdiction or authority in the particular circumstances.

(H) "Person" means any person, firm, partnership, association, or corporation.

(I) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations. If not prohibited by the applicable bond proceedings, bond service charges may include costs relating to credit enhancement facilities that are related to and represent, or are intended to provide a source of payment of or

limitation on, other bond service charges.

(J) "Capital facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, within the state, and any one, part of, or combination of the foregoing, to serve the general purposes for which the issuing authority is authorized to issue obligations pursuant to Chapter 154. of the Revised Code, including, but not limited to, drives, roadways, parking facilities, walks, lighting, machinery, furnishings, utilities, landscaping, wharves, docks, piers, reservoirs, dams, tunnels, bridges, retaining walls, riprap, culverts, ditches, channels, watercourses, retention basins, standpipes and water storage facilities, waste treatment and disposal facilities, heating, air conditioning and communications facilities, inns, lodges, cabins, camping sites, golf courses, boat and bathing facilities, athletic and recreational facilities, and site improvements.

(K) "Costs of capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the commission or issuing authority and department of administrative services, or other designees of the commission under section 154.17 of the Revised Code, cost of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, legal fees, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisers and

consultants in connection therewith, interest on obligations, including but not limited to, interest from the date ~~thereof~~ of their issuance to the time when interest is to be covered from sources other than proceeds of obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursement of all moneys advanced or applied by or borrowed from any governmental agency, whether to or by the commission or others, from whatever source provided, for the payment of any item or items of cost of the capital facilities, any share of the cost undertaken by the commission pursuant to arrangements made with governmental agencies under division (H) of section 154.06 of the Revised Code, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to capital facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of capital facilities, the financing thereof and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(L) "Public service facilities" means inns, lodges, hotels, cabins, camping sites, scenic trails, picnic sites, restaurants, commissaries, golf courses, boating and bathing facilities and other similar facilities in state parks.

(M) "State parks" means:

(1) State reservoirs described and identified in section 1541.06 of the Revised Code;

(2) All lands or interests therein of the state identified as administered by the division of parks and recreation in the "inventory of state owned lands administered by the department of natural resources as of June 1, 1963," as recorded in the journal of the director, which inventory was prepared by the real estate

section of the department and is supported by maps now on file in said real estate section;

(3) All lands or interests in lands of the state designated after June 1, 1963, as state parks in the journal of the director with the approval of the recreation and resources council.

State parks do not include any lands or interest in lands of the state administered jointly by two or more divisions of the department of natural resources. The designation of lands as state parks under divisions (M)(1) to (3) of this section is conclusive and such lands shall be under the control of and administered by the division of parks and recreation. No order or proceeding designating lands as state parks or park purchase areas is subject to any appeal or review by any officer, board, commission, or court.

(N) "Bond service fund" means the applicable fund created for and pledged to the payment of bond service charges under section 154.20, 154.21, 154.22, or 154.23 of the Revised Code, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(O) "Improvement fund" means the applicable fund created for the payment of costs of capital facilities under section 154.20, 154.21, 154.22, or 3383.09 of the Revised Code, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(P) "Special funds" or "funds" means, except where the context does not permit, the bond service funds, the improvements funds, and any other funds for similar or different purposes created under bond proceedings, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(Q) "Year" unless the context indicates a different meaning

or intent, means a calendar year beginning on the first day of January and ending on the thirty-first day of December.

(R) "Fiscal year" means the period of twelve months beginning on the first day of July and ending on the thirtieth day of June.

(S) "Issuing authority" means the treasurer of state or the officer or employee who by law performs the functions of that office.

(T) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code.

(U) "Ohio cultural facility" and "Ohio sports facility" have the same meanings as in section 3383.01 of the Revised Code.

Sec. 167.04. (A) The regional council of governments shall adopt by-laws, by a majority vote of its members, designating the officers of the council and the method of their selection, creating a governing board that may act for the council as provided in the by-laws, and providing for the conduct of its business.

(B) The by-laws of the regional council of governments shall provide for the appointment of a fiscal officer, who may hold any other office or employment with the council, and who shall receive, deposit, invest, and disburse the funds of the council in the manner authorized by the by-laws or action by the council.

(C) The by-laws of a regional council of governments the members of which include, under sections 167.01 and 167.02 of the Revised Code, at least eight counties may include a provision authorizing member attendance and voting at council meetings either in person or by proxy.

(D)(1) Within ten business days after forming a regional council of governments, the officers of the council shall notify the auditor of state of the regional council's formation and shall

provide on a form prescribed by the auditor of state the information regarding the regional council that the auditor of state considers necessary.

(2) As used in this division, "business day" means a day of the week, excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.

Sec. 171.021. Notwithstanding division (C) of section 121.22 of the Revised Code, rules adopted by the Ohio retirement study council regarding meetings of the council shall prohibit a member from voting on a matter before the council except while sitting in a meeting of the council, unless the member shall have first been present and recorded as such during that meeting before the vote is taken, and by motion the roll call is continued for a vote by any member who is temporarily absent from the meeting until the adjournment thereof, which shall be not later than twelve noon one day following the meeting.

Sec. 173.14. As used in sections 173.14 to 173.27 of the Revised Code:

(A)(1) Except as otherwise provided in division (A)(2) of this section, "long-term care facility" includes any residential facility that provides personal care services for more than twenty-four hours for ~~two~~ one or more unrelated adults, including all of the following:

(a) A "nursing home," "residential care facility," or "home for the aging" as defined in section 3721.01 of the Revised Code;

(b) A facility authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than

twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(c) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(d) ~~An "adult care~~ A residential facility~~" as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or accommodations and personal care services for only one or two adults who are recipients under the residential state supplement program;

(e) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans~~;~~

~~(f) An adult foster home certified under section 5119.692 of the Revised Code~~.

(2) "Long-term care facility" does not include ~~a "residential facility" as defined in section 5119.22 of the Revised Code or~~ a ~~"~~residential facility~~" as defined in~~ licensed under section 5123.19 of the Revised Code.

(B) "Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility.

(C) "Community-based long-term care services" means health and social services provided to persons in their own homes or in community care settings, and includes any of the following:

(1) Case management;

(2) Home health care;

(3) Homemaker services;

(4) Chore services;

(5) Respite care;

(6) Adult day care;

(7) Home-delivered meals;

(8) Personal care;

(9) Physical, occupational, and speech therapy;

(10) Transportation;

(11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings.

(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.

(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.

(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson.

(H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised Code.

(I) "Area agency on aging" means an area agency on aging

established under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C.A. 3001, as amended.

Sec. 173.21. (A) The office of the state long-term care ombudsperson program, through the state long-term care ombudsperson and the regional long-term care ombudsperson programs, shall require each representative of the office to complete a training and certification program in accordance with this section and to meet the continuing education requirements established under this section.

(B) The department of aging shall adopt rules under Chapter 119. of the Revised Code specifying the content of training programs for representatives of the office of the state long-term care ombudsperson program. Training for representatives other than those who are volunteers providing services through regional long-term care ombudsperson programs shall include instruction regarding federal, state, and local laws, rules, and policies on long-term care facilities and community-based long-term care services; investigative techniques; and other topics considered relevant by the department and shall consist of the following:

(1) A minimum of forty clock hours of basic instruction, which shall be completed before the trainee is permitted to handle complaints without the supervision of a representative of the office certified under this section;

(2) An additional sixty clock hours of instruction, which shall be completed within the first fifteen months of employment;

(3) An internship of twenty clock hours, which shall be completed within the first twenty-four months of employment, including instruction in, and observation of, basic nursing care and long-term care provider operations and procedures. The internship shall be performed at a site that has been approved as an internship site by the state long-term care ombudsperson.

(4) One of the following, which shall be completed within the first twenty-four months of employment:

(a) Observation of a survey conducted by the director of health to certify a facility to receive funds under sections 5111.20 to 5111.32 of the Revised Code;

(b) Observation of an inspection conducted by the director of mental health to license ~~an adult care~~ a residential facility under section ~~5119.73~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(5) Any other training considered appropriate by the department.

(C) Persons who for a period of at least six months prior to June 11, 1990, served as ombudsmen through the long-term care ombudsperson program established by the department of aging under division (M) of section 173.01 of the Revised Code shall not be required to complete a training program. These persons and persons who complete a training program shall take an examination administered by the department of aging. On attainment of a passing score, the person shall be certified by the department as a representative of the office. The department shall issue the person an identification card, which the representative shall show at the request of any person with whom the representative deals while performing the representative's duties and which shall be surrendered at the time the representative separates from the office.

(D) The state ombudsperson and each regional program shall conduct training programs for volunteers on their respective staffs in accordance with the rules of the department of aging adopted under division (B) of this section. Training programs may be conducted that train volunteers to complete some, but not all,

of the duties of a representative of the office. Each regional office shall bear the cost of training its representatives who are volunteers. On completion of a training program, the representative shall take an examination administered by the department of aging. On attainment of a passing score, a volunteer shall be certified by the department as a representative authorized to perform services specified in the certification. The department shall issue an identification card, which the representative shall show at the request of any person with whom the representative deals while performing the representative's duties and which shall be surrendered at the time the representative separates from the office. Except as a supervised part of a training program, no volunteer shall perform any duty unless he is certified as a representative having received appropriate training for that duty.

(E) The state ombudsperson shall provide technical assistance to regional programs conducting training programs for volunteers and shall monitor the training programs.

(F) Prior to scheduling an observation of a certification survey or licensing inspection for purposes of division (B)(4) of this section, the state ombudsperson shall obtain permission to have the survey or inspection observed from both the director of health and the long-term care facility at which the survey or inspection is to take place.

(G) The department of aging shall establish continuing education requirements for representatives of the office.

Sec. 173.23. (A) Representatives of the office of the state long-term care ombudsperson program are immune from civil or criminal liability for any action taken in the good faith performance of their official duties under sections 173.14 to 173.26 of the Revised Code. ~~The department of aging shall ensure~~

~~that adequate legal counsel is available to the office of the state long-term care ombudsperson program for advice and consultation and that legal representation is provided to any representative of the office against whom any legal action is brought in connection with the representative's official duties under sections 173.14 to 173.26 of the Revised Code.~~

(B) A person acting in good faith is immune from civil or criminal liability incident to any of the following: providing information to the office, participating in registration of a complaint with the office, participating in investigation of a complaint by the office, or participating in an administrative or judicial proceeding resulting from a complaint.

(C) No person shall knowingly register a false complaint with the office, or knowingly swear or affirm the truth of a false complaint previously registered, when the statement is made with purpose to incriminate another.

(D) The attorney general shall provide legal counsel to the office of the state long-term care ombudsperson program and to the regional long-term care ombudsperson programs. The attorney general shall represent any representative of the office and any representative of a regional program against whom any legal action is brought in connection with the representative's official duties under sections 173.14 to 173.26 of the Revised Code.

Sec. 173.26. (A) Each of the following facilities shall annually pay to the department of aging six dollars for each bed maintained by the facility for use by a resident during any part of the previous year:

(1) Nursing homes, residential care facilities, and homes for the aging as defined in section 3721.01 of the Revised Code;

(2) Facilities authorized to provide extended care services

under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(3) County homes and district homes operated pursuant to Chapter 5155. of the Revised Code;

(4) ~~Adult care~~ Residential facilities ~~as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provide accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(5) Facilities approved by the Veterans Administration under Section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

The department shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish deadlines for payments required by this section. A facility that fails, within ninety days after the established deadline, to pay a payment required by this section shall be assessed at two times the original invoiced payment.

(B) All money collected under this section shall be deposited in the state treasury to the credit of the office of the state long-term care ombudsperson program fund, which is hereby created. Money credited to the fund shall be used solely to pay the costs of operating the regional long-term care ombudsperson programs.

(C) The state long-term care ombudsperson and the regional programs may solicit and receive contributions to support the operation of the office or a regional program, except that no

contribution shall be solicited or accepted that would interfere with the independence or objectivity of the office or program.

Sec. 173.27. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with the office of the state long-term care ombudsperson program in a full-time, part-time, or temporary position that involves providing ombudsperson services to residents and recipients. "Applicant" includes~~, but is not limited to,~~ a person who is under final consideration for employment as the state long-term care ombudsperson or the head of a regional long-term care ombudsperson program. "Applicant" does not include a person ~~who provides~~ seeking to provide ombudsperson services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Disqualifying offense" means any of the following:

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24,

2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(3)(a) to (c) of this section;

(e) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A)(3)(a) to (d) of this section.

(4) "Employee" means a person employed by the office of the state long-term care ombudsperson program in a full-time, part-time, or temporary position that involves providing ombudsperson services to residents and recipients. "Employee" includes the person employed as the state long-term care ombudsperson and a person employed as the head of a regional long-term care ombudsperson program. "Employee" does not include a person who provides ombudsperson services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(5) "Responsible entity" means the following:

(a) In the case of an applicant who is under final consideration for employment as the state long-term care

ombudsperson or the person employed as the state long-term care ombudsperson, the director of aging;

(b) In the case of any other applicant or employee, the state long-term care ombudsperson or the ombudsperson's designee.

(B) The office of the state long-term care ombudsperson program may not employ an applicant or continue to employ an employee in a position that involves providing ombudsperson services to residents and recipients if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the office from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing ombudsperson services to residents and recipients.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to

complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) The responsible entity shall inform each applicant of both of the following at the time of the applicant's initial application for employment in a position that involves providing ombudsperson services to residents and recipients:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the office of the state long-term care ombudsperson program is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of any applicant's being employed by the office of the state long-term care ombudsperson program in a position that involves providing ombudsperson services to residents and recipients, the responsible entity shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the responsible entity shall conduct a database review of an employee in accordance with the rules as a condition of the office's continuing to employ the employee in a position that involves providing ombudsperson services to residents and

recipients. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) ~~The state long-term care ombudsperson or the ombudsperson's designee~~ As a condition of any applicant's being employed by the office of the state long-term care ombudsperson program in a position that involves providing ombudsperson services to residents and recipients, the responsible entity shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check ~~with respect to each~~ of the applicant. If rules adopted under this

section so require, the responsible entity shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of the office's continuing to employ the employee in a position that involves providing ombudsperson services to residents and recipients. However, ~~if the applicant is under final consideration for employment as the state long-term care ombudsperson, the director of aging shall request that the superintendent conduct the criminal records check~~ the responsible entity is not required to request the criminal records check of the applicant or employee if the office is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing ombudsperson services to residents and recipients. If an applicant or employee for whom a criminal records check request is required ~~under~~ by this ~~division~~ section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the ~~ombudsperson, designee, or director~~ responsible entity shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check ~~of the applicant~~. Even if an applicant or employee for whom a criminal records check request is required ~~under~~ by this ~~division~~ section presents proof of having been a resident of this state for the five-year period, the ~~ombudsperson, designee, or director~~ responsible entity may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) ~~A person required by division (B)(1) of this section to request a criminal records check~~ The responsible entity shall do

~~both~~ all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required ~~under that division~~ by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard ~~fingerprint~~ impression sheet prescribed pursuant to division (C)(2) of that section~~, and obtain~~;

(b) Obtain the completed form and standard impression sheet from the applicant or employee;

~~(b)~~(c) Forward the completed form and standard impression sheet to the superintendent ~~of the bureau of criminal identification and investigation~~.

(3) ~~An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.~~

~~(C)(1) Except as provided in rules adopted by the director of aging in accordance with division (F) of this section and subject to division (C)(2) of this section, the office of the state long-term care ombudsperson may not employ a person in a position that involves providing ombudsperson services to residents and recipients if the person has been convicted of or pleaded guilty to any of the following:~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36,~~

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

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

~~(2)(a)~~ The office of the state long-term care ombudsperson program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the responsible entity requests under this section. The office may charge an applicant a fee not exceeding the amount the office pays to the bureau under this section if the responsible entity notifies the applicant at the time of initial application for employment of the amount of the fee.

(F)(1) The office of the state long-term care ombudsperson program may employ conditionally an applicant for whom a criminal records check ~~request~~ is required ~~under division (B) of~~ by this section prior to obtaining the results of ~~a~~ the criminal records check ~~regarding the individual, provided that the state long-term care ombudsperson, ombudsperson's designee, or director of aging shall request a~~ if the office is not prohibited by division (B)(1) of this section from employing the applicant in a position that involves providing ombudsperson services to residents and recipients and the responsible entity requests the criminal records check ~~regarding the individual~~ in accordance with division ~~(B)(1)~~(E) of this section not later than five business days after the ~~individual~~ applicant begins conditional employment.

~~(b)~~(2) The office of the state long-term care ombudsperson program shall terminate the employment of an ~~individual~~ applicant employed conditionally under division ~~(C)(2)(a)~~(F)(1) of this section if the results of the criminal records check ~~request under~~

~~division (B) of this section~~, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the ~~individual~~ applicant has been convicted of ~~or~~, pleaded guilty to ~~any of the offenses listed or described in division (C)(1) of this section~~, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the office shall terminate the ~~individual's~~ applicant's employment unless circumstances specified in rules adopted under this section that permit the office to employ the applicant exist and the office chooses to employ the ~~individual pursuant to division (F) of this section~~ applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the ~~individual~~ applicant makes any attempt to deceive the office about the ~~individual's~~ applicant's criminal record.

~~(D)(1) The office of the state long-term care ombudsperson program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.~~

~~(2) The office of the state long-term care ombudsperson program may charge an applicant a fee not exceeding the amount the office pays under division (D)(1) of this section. The office may collect a fee only if the office notifies the applicant at the time of initial application for employment of the amount of the fee.~~

~~(E)~~(G) The report of any criminal records check conducted

pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The ~~individual~~ applicant or employee who is the subject of the criminal records check or the ~~individual's~~ applicant's or employee's representative;

(2) The ~~state long-term care ombudsperson, ombudsperson's designee, director of aging,~~ responsible entity or the ~~ombudsperson, designee, or director's~~ responsible entity's representative;

(3) If the state long-term care ombudsperson designates the head or other employee of a regional long-term care ombudsperson program to request a criminal records check under this section, a representative of the office of the state long-term care ombudsperson program who is responsible for monitoring the regional program's compliance with this section;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ any of the following:

(a) A denial of employment of the applicant or ~~dealing with employment~~ employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.

~~(F) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the office of the state long-term care ombudsperson program may employ a person who has been convicted of or pleaded guilty to an offense listed~~

~~or described in division (C)(1) of this section but meets personal character standards set by the director.~~

~~(G) The office of the state long-term care ombudsperson program shall inform each person, at the time of initial application for a position that involves providing ombudsperson services to residents and recipients, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.~~

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an ~~individual~~ applicant or employee who the office of the state long-term care ombudsperson program employs in a position that involves providing ombudsperson services to residents and recipients, all of the following shall apply:

(1) If the office employed the ~~individual~~ applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the office shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.

(2) If the office employed the ~~individual~~ applicant in good faith on a conditional basis pursuant to division ~~(C)(2)~~(F) of this section, the office shall not be found negligent solely because it employed the ~~individual~~ applicant prior to receiving the report of a criminal records check requested under this section.

(3) If the office in good faith employed the ~~individual~~ applicant or employee according to the personal character standards established in rules adopted under ~~division (F) of~~ this section, the office shall not be found negligent solely because

the ~~individual prior to being employed had~~ applicant or employee has been convicted of ~~or,~~ pleaded guilty to ~~an offense listed or described in division (C)(1) of this section~~, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(I) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which the office of the state long-term care ombudsperson program is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(d) Circumstances under which the office of the state

long-term care ombudsperson program may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards.

Sec. 173.391. (A) The department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code:

(1) Certify a person or government entity to provide community-based long-term care services under a program the department administers if the person or government entity satisfies the requirements for certification established by rules adopted under division (B) of this section and pays the fee, if any, established by rules adopted under division (G) of this section;

(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a person or government entity certified under division (A)(1) of this section:

(a) Issue a written warning;

(b) Require the submission of a plan of correction or evidence of compliance with requirements identified by the department;

(c) Suspend referrals;

(d) Remove clients;

(e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid;

(f) Suspend the certification;

(g) Revoke the certification;

(h) Impose another sanction.

(3) Except as provided in division (E) of this section, hold hearings when there is a dispute between the department or its designee and a person or government entity concerning actions the department or its designee takes regarding a decision not to certify the person or government entity under division (A)(1) of this section or a disciplinary action under ~~division~~ divisions (A)(2)(e) to (h) of this section.

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following:

(1) Ensuring that community-based long-term care agencies comply with section 173.394 of the Revised Code;

(2) Evaluating the services provided by the agencies to ensure that the services are provided in a quality manner advantageous to the individual receiving the services;

(3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take;

(4) Determining what constitutes another sanction for purposes of division (A)(2)(h) of this section.

(C) The procedures established in rules adopted under division (B)(2) of this section shall require that all of the following be considered as part of an evaluation described in division (B)(2) of this section:

(1) The community-based long-term care agency's experience and financial responsibility;

(2) The agency's ability to comply with standards for the community-based long-term care services that the agency provides under a program the department administers;

(3) The agency's ability to meet the needs of the individuals served;

(4) Any other factor the director considers relevant.

(D) The rules adopted under division (B)(3) of this section shall specify that the reasons disciplinary action may be taken under division (A)(2) of this section include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious, or poses a threat, to the health or safety of individuals being served.

(E) Subject to division (F) of this section, the department is not required to hold hearings under division (A)(3) of this section if any of the following conditions apply:

(1) Rules adopted by the director of aging pursuant to this chapter require the community-based long-term care agency to be a party to a provider agreement; hold a license, certificate, or permit; or maintain a certification, any of which is required or issued by a state or federal government entity other than the department of aging, and either of the following is the case:

(a) The provider agreement has not been entered into or the license, certificate, permit, or certification has not been obtained or maintained.

(b) The provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, or suspended or has been otherwise restricted.

(2) The agency's certification under this section has been denied, suspended, or revoked for any of the following reasons:

(a) A government entity of this state, other than the department of aging, has terminated or refused to renew any of the following held by, or has denied any of the following sought by, a community-based long-term care agency: a provider agreement, license, certificate, permit, or certification. Division (E)(2)(a) of this section applies regardless of whether the agency has entered into a provider agreement in, or holds a license, certificate, permit, or certification issued by, another state.

(b) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or has been convicted of, an offense materially related to the medicaid program.

(c) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, ~~or~~ been convicted of, or been found eligible for intervention in lieu of conviction for an offense listed in ~~division (C)(1)(a)~~ divisions (A)(3)(a) to (d) of section 173.394 of the Revised Code, but only if none of the personal character standards established by the ~~department~~ director in rules adopted under ~~division (F) of~~ that section ~~173.394 of the Revised Code~~ apply.

(d) The United States department of health and human services has taken adverse action against the agency and that action impacts the agency's participation in the medicaid program.

(e) The agency has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is defined in section 173.42 of the Revised Code, that administers programs on behalf of the department of aging in the region of the state in which the agency is certified to provide services.

(f) The agency has not billed or otherwise submitted a claim to the department for payment under the medicaid program in at least two years.

(g) The agency denied or failed to provide the department or its designee access to the agency's facilities during the agency's normal business hours for purposes of conducting an audit or structural compliance review.

(h) The agency has ceased doing business.

(i) The agency has voluntarily relinquished its certification for any reason.

(3) The agency's provider agreement with the department of job and family services has been suspended under division (C) of section 5111.031 of the Revised Code.

(4) The agency's provider agreement with the department of job and family services is denied or revoked because the agency or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section 5111.031 of the Revised Code.

(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department may send a notice to the agency describing a decision not to certify the agency under division (A)(1) of this section or the disciplinary action the department proposes to take under division (A)(2)(e) to (h) of this section. The notice shall be sent to the agency's address that is on record with the department and may be sent by regular mail.

(G) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee to be charged by the department of aging or its designee for certification issued under this section.

All fees collected by the department or its designee under this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby

created. Money credited to the fund shall be used to pay for community-based long-term care services, administrative costs associated with community-based long-term care agency certification under this section, and administrative costs related to the publication of the Ohio long-term care consumer guide.

Sec. 173.394. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a community-based long-term care agency in a full-time, part-time, or temporary position that involves providing direct care to an individual or is referred to a community-based long-term care agency by an employment service for such a position. "Applicant" does not include a person who provides direct care to an individual as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Disqualifying offense" means any of the following:

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24,

2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(3)(a) to (c) of this section;

(e) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A)(3)(a) to (d) of this section.

(4) "Employee" means a person employed by a community-based long-term care agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a community-based long-term care agency by an employment service. "Employee" does not include a person who provides direct care to an individual as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(B) No community-based long-term care agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply:

(1) A review of the databases listed in division (D) of this

section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing direct care to an individual.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) Except as provided by division (F) of this section, the chief administrator of a community-based long-term care agency shall inform each applicant of both of the following at the time

of the applicant's initial application for employment or referral to the agency by an employment service for a position that involves providing direct care to an individual:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the agency is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a community-based long-term care agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, a chief administrator is not required to conduct a database review of an applicant or employee if division (F) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department

of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) ~~Except as provided in division (I) of this section~~ As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check ~~with respect to each~~ of the applicant. If rules adopted under this section so require, the chief administrator of a community-based long-term care agency shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to request the criminal records check of the applicant or employee if division (F) of this section applies or the agency is prohibited by division (B)(1) of this section from employing the applicant or

continuing to employ the employee in a position that involves providing direct care to an individual. If an applicant or employee for whom a criminal records check request is required ~~under~~ by this ~~division~~ section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check ~~of the applicant~~. Even if an applicant or employee for whom a criminal records check request is required ~~under~~ by this ~~division~~ section presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) ~~A person required by division (B)(1) of this section to request a criminal records check~~ The chief administrator shall do ~~both~~ all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required ~~under that division~~ by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard ~~fingerprint~~ impression sheet prescribed pursuant to division (C)(2) of that section~~, and obtain~~;

(b) Obtain the completed form and standard impression sheet from the applicant or employee;

~~(b)~~(c) Forward the completed form and standard impression sheet to the superintendent ~~of the bureau of criminal identification and investigation~~.

~~(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.~~

~~(C)(1) Except as provided in rules adopted by the department of aging in accordance with division (F) of this section and subject to division (C)(2) of this section, no community-based long-term care agency shall employ a person in a position that involves providing direct care to an individual if the person has been convicted of or pleaded guilty to any of the following:~~

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

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

~~(2)(a)~~ A community-based long-term care agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the agency requests under this section. An agency may charge an applicant a fee not exceeding the amount the agency pays to the bureau under this section if both of the following apply:

(a) The agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(b) The medicaid program established under Chapter 5111. of the Revised Code does not reimburse the agency for the fee it pays to the bureau under this section.

(F) Divisions (C) to (E) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a community-based long-term agency by an employment service that supplies full-time, part-time, or temporary staff for positions that involve providing direct care to an individual and both of the following apply:

(1) The chief administrator of the agency receives from the employment service confirmation that a review of the databases listed in division (D) of this section was conducted of the applicant or employee.

(2) The chief administrator of the agency receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the agency;

(b) In the case of an employee, the date by which the agency would otherwise have to request a criminal records check of the employee under division (E) of this section.

(G)(1) A community-based long-term care agency may employ conditionally an applicant for whom a criminal records check request is required ~~under division (B) of~~ by this section prior to obtaining the results of ~~a~~ the criminal records check ~~regarding~~

~~the individual, provided that~~ if the agency is not prohibited by division (B)(1) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies:

(a) The chief administrator of the agency ~~shall request a~~ requests the criminal records check ~~regarding the individual~~ in accordance with division ~~(B)(1)~~(E) of this section not later than five business days after the ~~individual~~ applicant begins conditional employment.

(b) The applicant is referred to the agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter;

(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the agency when the employment service receives the results. ~~In the circumstances described in division (I)(2) of this section, a community-based long-term care agency may employ conditionally an applicant who has been referred to the agency by~~

~~an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of individuals and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.~~

~~(b)~~(2) If a community-based long-term care agency employs an applicant conditionally pursuant to division (G)(1)(b) of this section, the employment service, on its receipt of the results of the criminal records check, promptly shall send a copy of the results to the chief administrator of the agency.

(3) A community-based long-term care agency that employs an ~~individual~~ applicant conditionally ~~under authority of~~ pursuant to division ~~(C)(2)(a)~~(G)(1)(a) or (b) of this section shall terminate the ~~individual's~~ applicant's employment if the results of the criminal records check ~~request under division (B) of this section or described in division (I)(2) of this section~~, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the ~~individual~~ applicant has been convicted of ~~or~~, pleaded guilty to ~~any of the offenses listed or described in division (C)(1) of this section~~, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the agency shall terminate the ~~individual's~~ applicant's employment unless circumstances specified in rules adopted under this section that permit the agency to employ the applicant exist and the agency chooses to employ the ~~individual pursuant to division (F) of this section~~ applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the ~~individual~~ applicant makes any attempt to deceive the agency about the ~~individual's~~

applicant's criminal record.

~~(D)(1) Each community-based long-term care agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.~~

~~(2) A community-based long-term care agency may charge an applicant a fee not exceeding the amount the agency pays under division (D)(1) of this section. An agency may collect a fee only if both of the following apply:~~

~~(a) The agency notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;~~

~~(b) The medicaid program established under Chapter 5111. of the Revised Code does not reimburse the agency the fee it pays under division (D)(1) of this section.~~

~~(E)~~(H) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The ~~individual~~ applicant or employee who is the subject of the criminal records check or the ~~individual's~~ applicant's or employee's representative;

(2) The chief administrator of the community-based long-term care agency requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to individuals that is owned or

operated by the same entity that owns or operates the community-based long-term care agency that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) The director of aging or a person authorized by the director to monitor a community-based long-term care agency's compliance with this section;

~~(5)~~(6) A court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ any of the following:

(a) A denial of employment of the applicant or ~~dealing with employment~~ employee;

(b) Employment or unemployment benefits of the applicant or employee;

~~(6) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section~~ (c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.

~~(F) The department of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a community-based long-term care agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.~~

~~(G) The chief administrator of a community-based long-term care agency shall inform each person, at the time of initial application for a position that involves providing direct care to an individual, that the person is required to provide a set of fingerprint impressions and that a criminal records check is~~

~~required to be conducted if the person comes under final consideration for employment.~~

~~(H)~~(I) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an ~~individual~~ applicant or employee who a community-based long-term care agency employs in a position that involves providing direct care to individuals, all of the following shall apply:

(1) If the agency employed the ~~individual~~ applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the agency shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate~~;~~.

(2) If the agency employed the ~~individual~~ applicant in good faith on a conditional basis pursuant to division ~~(C)(2)~~(G) of this section, the agency shall not be found negligent solely because it employed the ~~individual~~ applicant prior to receiving the report of a criminal records check requested under this section~~;~~.

(3) If the agency in good faith employed the ~~individual~~ applicant or employee according to the personal character standards established in rules adopted under ~~division (F) of~~ this section, the agency shall not be found negligent solely because the ~~individual prior to being employed had~~ applicant or employee has been convicted of ~~or~~, pleaded guilty to ~~an offense listed or described in division (C)(1) of this section~~, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

~~(I)(1) The chief administrator of a community-based long-term care agency is not required to request that the superintendent of~~

~~the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of individuals and both of the following apply:~~

~~(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;~~

~~(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the community-based long-term care agency chooses to employ the individual pursuant to division (F) of this section.~~

~~(2) The chief administrator of a community-based long-term care agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of individuals and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will**

~~include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the community-based long-term care agency. If a community-based long-term care agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the community-based long-term care agency, and division (C)(2)(b) of this section applies regarding the conditional employment.~~

(J) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times

at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a community-based long-term care agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(d) Circumstances under which a community-based long-term care agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards.

Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the Revised Code:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"PASSPORT program" means the program created under this section.

"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the PASSPORT program.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) There is hereby created the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled and meet the program's applicable

eligibility requirements. Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component.

(C)(1) Unless the medicaid-funded component of the PASSPORT program is terminated under division (C)(2) of this section, all of the following apply:

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code.

(b) The medicaid-funded component shall be operated as a separate medicaid waiver component.

(c) For an individual to be eligible for the medicaid-funded component, the individual must be a medicaid recipient and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (C)(1)(d) of this section.

(d) The director of job and family services shall adopt rules under section 5111.85 of the Revised Code and the director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the medicaid-funded component.

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the medicaid-funded component of the PASSPORT program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the PASSPORT program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

(D)(1) The department of aging shall administer the

state-funded component of the PASSPORT program. The state-funded component shall not be administered as part of the medicaid program.

(2) For an individual to be eligible for the state-funded component, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D)(4) of this section:

(a) The individual must have been enrolled in the state-funded component on September 1, 1991, (as the state-funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) denied.

(b) The individual must have had the individual's enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) terminated and the individual must still need the home and community-based services provided under the PASSPORT program to protect the individual's health and safety.

(c) The individual must have an application for the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual

meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component).

(3) An individual who is eligible for the state-funded component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component on that basis for not more than ~~three months~~ ninety days.

(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section.

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the Revised Code:

(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(2) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program created under section 173.40 of the Revised Code;

(b) The choices program created under section 173.403 of the Revised Code;

(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code;

(d) Any other medicaid waiver component, as defined in section 5111.85 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the

department of job and family services under section 5111.91 of the Revised Code.

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:

(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;

(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5111.02 of the Revised Code:

(i) Home health services;

(ii) Private duty nursing services;

(iii) Durable medical equipment;

(iv) Services of a clinical nurse specialist;

(v) Services of a certified nurse practitioner.

(c) Services available to a participant of the PACE program.

(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.

(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

(6) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(7) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

(8) "PASSPORT administrative agency" means an entity under

contract with the department of aging to provide administrative services regarding the PASSPORT program.

(9) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.

(10) "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility or granted assistance in receiving home and community-based services covered by medicaid components the department of aging administers.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may have the program administered on a regional basis by one or more program administrators. The department and each program administrator shall administer the program in such a manner that all of the following are included:

(1) Coordination and collaboration with respect to all

available funding sources for long-term care services;

(2) Assessments of individuals regarding their long-term care service needs;

(3) Assessments of individuals regarding their on-going eligibility for long-term care services;

(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;

(5) Priorities for using available resources efficiently and effectively.

(D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code.

(E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:

(1) The availability of any long-term care options open to the individual;

(2) Sources and methods of both public and private payment for long-term care services;

(3) Factors to consider when choosing among the available programs, services, and benefits;

(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community.

(F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be provided concurrently with the assessment

required under section 5111.204 of the Revised Code.

(G)(1) Unless an exemption specified in division (I) of this section is applicable, each of the following shall be provided with a long-term care consultation:

(a) An individual who applies or indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in a nursing facility;

(b) An individual who requests a long-term care consultation;

(c) An individual identified by the department or a program administrator as being likely to benefit from a long-term care consultation.

(2) In addition to the individuals specified in division (G)(1) of this section, a long-term care consultation may be provided to a nursing facility resident regardless of the source of payment being used for the resident's care in the nursing facility.

(H)(1) Except as provided in division (H)(2) or (3) of this section, a long-term care consultation provided pursuant to division (G) of this section shall be provided as follows:

(a) If the individual for whom the consultation is being provided has applied for medicaid and the consultation is being provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment.

(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or program administrator receives notice of the reason for which the

consultation is to be provided pursuant to division (G) of this section.

(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section.

(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or program administrator may do any of the following:

(a) In the case of an individual specified in division (G)(1) of this section, exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section;

(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility;

(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable.

(I) An individual is not required to be provided a long-term care consultation under division (G)(1) of this section if any of the following apply:

(1) The department or program administrator has attempted to provide the consultation, but the individual or the individual's representative refuses to cooperate;

(2) The individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code;

(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care

in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, ~~an adult care~~ a residential facility licensed under ~~sections 5119.70 to 5119.88~~ section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, or an independent living arrangement;

(4) The individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(6) The individual is exempted from the long-term care consultation requirement by the department or the program administrator pursuant to rules that may be adopted under division (L) of this section.

(J) As part of the long-term care consultation program, the department or program administrator shall assist an individual or individual's representative in accessing all sources of care and services that are appropriate for the individual and for which the individual is eligible, including all available home and community-based services covered by medicaid components the department of aging administers. The assistance shall include providing for the conduct of assessments or other evaluations and the development of individualized plans of care or services under section 173.424 of the Revised Code.

(K) No nursing facility for which an operator has a provider agreement under section 5111.22, 5111.671, or 5111.672 of the Revised Code shall admit any individual as a resident, unless the nursing facility has received evidence that a long-term care

consultation has been completed for the individual or division (I) of this section is applicable to the individual.

(L) The director of aging may adopt any rules the director considers necessary for the implementation and administration of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and may specify any or all of the following:

(1) Procedures for providing long-term care consultations pursuant to this section;

(2) Information to be provided through long-term care consultations regarding long-term care services that are available;

(3) Criteria and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;

(4) Criteria for exempting individuals from the long-term care consultation requirement;

(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;

(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation;

(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident with relocation from the facility;

(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;

(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section.

(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal law, the department of health, department of job and family services, or nursing facility holding the data shall grant access to the data on receipt of the request from the department of aging or program administrator.

(N)(1) The director of aging, after providing notice and an opportunity for a hearing, may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code for any of the following reasons:

(a) The nursing facility admits an individual, without evidence that a long-term care consultation has been provided, as required by this section;

(b) The nursing facility denies a person attempting to provide a long-term care consultation access to the facility or a resident of the facility;

(c) The nursing facility denies the department of aging or program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program.

(2) In accordance with section 5111.62 of the Revised Code, all fines collected under division (N)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund.

Sec. 173.45. As used in this section and in sections 173.46 to 173.49 of the Revised Code:

(A) "~~Adult care~~ Residential facility" ~~has the same meaning as in~~ means a residential facility licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

(C) "Long-term care facility" means a nursing home or residential care facility.

(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to September 29, 2005, under rules adopted under section 173.02 of the Revised Code.

(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility:

(1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations;

(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative;

(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code;

(4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code.

(C) The Ohio long-term care consumer guide may include information on ~~adult care~~ residential facilities and providers of community-based long-term care services. The department may adopt rules under section 173.49 of the Revised Code to specify the information to be included in the guide pursuant to this division.

Sec. 189.04. (A) The local government innovation council shall award loans to a qualified political subdivision or a qualified group of political subdivisions to be used for the purchase of equipment, facilities, or systems or for implementation costs.

Loans made under division (A) of this section shall be repaid by recipients using savings achieved from the innovation project or surplus money in a fund described in section 5709.43, 5709.75, or 5709.80 of the Revised Code.

(B) Up to twenty per cent of the funds in the local government innovation fund, established in section 189.05 of the Revised Code, may be awarded by the council as grants to political subdivisions for use in process improvement or implementation of innovation project awards, except for local government performance measurement grants awarded under section 189.041 of the Revised

Code.

(C) In every two fiscal years, the council may award one million dollars from the local government innovation fund, established in section 189.05 of the Revised Code, as local government performance measurement grants under section 189.041 of the Revised Code.

(D) The council shall award not more than one hundred thousand dollars in total grants and not more than one hundred thousand dollars in total loans to an individual political subdivision per innovation project under this section, excluding local government performance measurement grants awarded under section 189.041 of the Revised Code. For an innovation project involving a qualified group of political subdivisions, the council shall award, in total grants and loans, not more than five hundred thousand dollars, and the average amount per political subdivision shall not exceed one hundred thousand dollars.

Sec. 189.041. (A) The local government innovation council shall award local government performance measurement grants to political subdivisions to pay the necessary expenses of participation in the center for performance measurement program of the international city/county management association. A political subdivision may use moneys awarded under this section only for the following purposes:

(1) To pay the fee to the international city/county management association to enroll the political subdivision in the program;

(2) To pay employees of the political subdivision for the hours of work required to receive training to participate in the program and to gather and submit data to the center for performance measurement for the purpose of participation in the program;

(3) To pay an independent contractor to receive training to participate in the program and to gather and submit data to the center for performance measurement for the purpose of participation in the program; and

(4) To pay for necessary equipment, including computer equipment and software, for the political subdivision to receive training to participate in the program and to gather and submit data to the center for performance measurement for the purpose of participation in the program, if the political subdivision does not already possess such equipment.

(B)(1) All political subdivisions of the state are eligible to apply for a grant under this section. A political subdivision shall submit an application for a local government performance measurement grant to the council on a form specified by the council. The form shall require the political subdivision to provide a detailed estimate of the necessary expenses for the political subdivision to participate in the program.

(2) A political subdivision that is awarded funds under this section shall not be required to contribute matching funds toward the cost of participation in the program.

(3) The council shall award grants under this section in the order in which the council receives each properly completed application form, and in the amount reasonably requested in the application.

(C)(1) The council shall award not more than ten thousand dollars in every two fiscal years to a political subdivision under this section.

(2) After the end of each fiscal year in which a political subdivision has been awarded a grant under this section, the political subdivision shall do both of the following:

(a) Prepare and submit to the council, on a form prescribed

by the council, an itemized statement of the grant moneys that were expended and the purposes for which those moneys were expended.

(b) Submit to the council any grant moneys awarded under this section that remain unexpended. The council shall deposit all unexpended moneys in the state treasury to the credit of the local government innovation fund created in section 189.05 of the Revised Code.

Sec. 189.05. Funds for awards made by the local government innovation council shall be made from the local government innovation fund, which is hereby created in the state treasury. The fund shall consist of moneys appropriated to it, repayments of principal and interest on loans made from the fund, unexpended grant moneys submitted to the council under division (C)(2)(a) of section 189.041 of the Revised Code, and any grants or donations received from nonpublic entities. Interest earned on the money in the fund shall be credited to the fund.

Sec. 189.06. (A) All political subdivisions of the state are eligible to apply for awards under the local government innovation program. ~~Applications~~ Except for applications submitted for a local government performance measurement grant under section 189.041 of the Revised Code, applications shall be submitted to the department of development on a form specified by the director of development. The department shall provide the application to the local government innovation council for evaluation and selection.

~~The~~ Except as provided in section 189.041 of the Revised Code, the local government innovation council shall award loans and grants under the program in accordance with a competitive process to be developed by the council.

(B) Not later than December 31, 2011, the council shall establish criteria for evaluating proposals and making awards to political subdivisions, other than awards made under section 189.041 of the Revised Code. The criteria shall be developed in consultation with nonpublic entities involved in local government issues, state institutions of higher education, and the department of development, as determined by the council. The criteria shall include a requirement that at least one of the political subdivisions that is a party to the proposal provide matching funds. The matching funds may be provided by a nonpublic entity or may be paid using surplus money in a fund described in section 5709.43, 5709.75, or 5709.80 of the Revised Code. The criteria for evaluating proposals may include the following provisions:

(1) The expected return on investment, based on the ratio of expected savings;

(2) The number of participating entities in the proposal;

(3) The probability of the proposal's success;

(4) The percentage of local matching funds available;

(5) The ability to replicate the proposal in other political subdivisions;

(6) Whether the proposal is part of a larger consolidation effort by the applicant or applicants;

(7) Whether the proposal is to implement performance audit or other audit recommendations under Chapter 117. of the Revised Code;

(8) Whether the applicant has successfully completed an innovation project in the past.

Sec. 189.08. (A) Starting not later than March 1, 2012, the local government innovation council shall begin evaluating applications and proposals received under section 189.041 of the

Revised Code and from the department of development for awards to political subdivisions. Not later than July 1, 2012, the council shall make its first round of awards to the political subdivisions.

(B) After making the first round of awards, the council shall evaluate proposals and make awards on a quarterly basis, or on another schedule determined by the council, with the council determining the funding levels for each round of awards.

(C) When making awards from the local government innovation fund created in section 189.05 of the Revised Code, except for grants awarded under section 189.041 of the Revised Code, the funds awarded across all rounds shall be allocated as follows:

(1) At least thirty per cent to political subdivisions that are not counties and have a population of less than 20,000 residents as determined in the decennial census conducted in 2010 or counties with a population of less than 235,000 residents as determined in the decennial census conducted in 2010;

(2) At least thirty per cent to political subdivisions that are not counties and have a population of 20,000 residents or more as determined in the decennial census conducted in 2010 or counties with a population of 235,000 residents or more as determined in the decennial census conducted in 2010.

If a proposal includes participants from both divisions (C)(1) and (2) of this section, the award may be drawn from either or both tiers in the local government innovation fund.

Sec. 191.01. As used in this chapter:

(A) "Administrative safeguards," "availability," "confidentiality," "integrity," "physical safeguards," and "technical safeguards" have the same meanings as in 45 C.F.R. 164.304.

(B) "Business associate," "covered entity," "health plan," "individually identifiable health information," and "protected health information" have the same meanings as in 45 C.F.R. 160.103.

(C) "Executive director of the office of health transformation" or "executive director" means the executive director of the office of health transformation or the chief administrative officer of a successor governmental entity responsible for health system oversight in this state.

(D) "Government program providing public benefits" means any program administered by a state agency that has been identified, pursuant to section 191.02 of the Revised Code, by the executive director of the office of health transformation in consultation with the individuals specified in that section.

(E) "Office of health transformation" means the office of health transformation created by executive order 2011-02K.

(F) "Operating protocol" means a protocol adopted by the executive director of the office of health transformation or the executive director's designee under division (D) of section 191.06 of the Revised Code.

(G) "Participating agency" means a state agency that participates in a health transformation initiative as specified in the one or more operating protocols adopted for the initiative under division (D) of section 191.06 of the Revised Code.

(H) "Personally identifiable information" means information that meets both of the following criteria:

(1) It identifies an individual or there is a reasonable basis to believe that it may be used to identify an individual;

(2) It relates to an individual's eligibility for, application for, or receipt of public benefits from a government

program providing public benefits.

(I) "State agency" means each of the following:

(1) The department of aging;

(2) The department of alcohol and drug addiction services;

(3) The department of development;

(4) The department of developmental disabilities;

(5) The department of education;

(6) The department of health;

(7) The department of insurance;

(8) The department of job and family services;

(9) The department of mental health;

(10) The department of rehabilitation and correction;

(11) The department of taxation;

(12) The department of veterans services;

(13) The department of youth services.

(J) "Unsecured" has the same meaning as in 16 C.F.R. 318.2.

Sec. 191.02. The executive director of the office of health transformation, in consultation with all of the following individuals, shall identify each government program administered by a state agency that is to be considered a government program providing public benefits for purposes of section 191.04 of the Revised Code:

(A) The director of aging;

(B) The director of alcohol and drug addiction services;

(C) The director of development;

(D) The director of developmental disabilities;

(E) The director of health;

(F) The director job and family services;

(G) The director of mental health;

(H) The director of rehabilitation and correction;

(I) The director of veterans services;

(J) The director of youth services;

(K) The administrator of the rehabilitation services commission;

(L) The administrator of workers' compensation;

(M) The superintendent of insurance;

(N) The superintendent of public instruction;

(O) The tax commissioner.

Sec. 191.04. (A) In accordance with federal laws governing the confidentiality of individually identifiable health information, including the "Health Insurance Portability and Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States department of health and human services to implement the act, a state agency may exchange protected health information with another state agency relating to eligibility for or enrollment in a health plan or relating to participation in a government program providing public benefits if the exchange of information is necessary for either or both of the following:

(1) Operating a health plan;

(2) Coordinating, or improving the administration or management of, the health care-related functions of at least one government program providing public benefits.

(B) For fiscal year 2013 only, a state agency also may

exchange personally identifiable information with another state agency for purposes related to and in support of a health transformation initiative identified by the executive director of the office of health transformation pursuant to division (C) of section 191.06 of the Revised Code.

(C) With respect to a state agency that uses or discloses personally identifiable information, all of the following conditions apply:

(1) The state agency shall use or disclose the information only as permitted or required by state and federal law. In addition, if the information is obtained during fiscal year 2013 from an exchange of personally identifiable information permitted under division (B) of this section, the agency shall also use or disclose the information in accordance with all operating protocols that apply to the use or disclosure.

(2) If the state agency is a state agency other than the department of job and family services and it uses or discloses protected health information that is related to a medicaid recipient and obtained from the department of job and family services or another agency operating a component of the medicaid program, the state agency shall comply with all state and federal laws that apply to the department of job and family services when that department, as the state's single state agency to supervise the medicaid program as specified in section 5111.01 of the Revised Code, uses or discloses protected health information.

(3) A state agency shall implement administrative, physical, and technical safeguards for the purpose of protecting the confidentiality, integrity, and availability of personally identifiable information the creation, receipt, maintenance, or transmittal of which is affected or governed by this section.

(4) If a state agency discovers an unauthorized use or

disclosure of unsecured protected health information or unsecured individually identifiable health information, the state agency shall, not later than seventy-two hours after the discovery, do all of the following:

(a) Identify the individuals who are the subject of the protected health information or individually identifiable health information;

(b) Report the discovery and the names of all individuals identified pursuant to division (C)(4)(a) of this section to all other state agencies and the executive director of the office of health transformation or the executive director's designee;

(c) Mitigate, to the extent reasonably possible, any potential adverse effects of the unauthorized use or disclosure.

(5) A state agency shall make available to the executive director of the office of health transformation or the executive director's designee, and to any other state or federal governmental entity required by law to have access on that entity's request, all internal practices, records, and documentation relating to personally identifiable information it receives, uses, or discloses that is affected or governed by this section.

(6) On termination or expiration of an operating protocol and if feasible, a state agency shall return or destroy all personally identifiable information received directly from or received on behalf of another state agency. If the personally identifiable information is not returned or destroyed, the state agency maintaining the information shall extend the protections set forth in this section for as long as it is maintained.

(7) If a state agency enters into a subcontract or, when required by 45 C.F.R. 164.502(e)(2), a business associate agreement, the subcontract or business associate agreement shall

require the subcontractor or business associate to comply with the terms of this section as if the subcontractor or business associate were a state agency.

Sec. 191.06. (A) The provisions of this section shall apply only for fiscal year 2013.

(B) The executive director of the office of health transformation or the executive director's designee may facilitate the coordination of operations and exchange of information between state agencies. The purpose of the executive director's authority under this section is to support agency collaboration for health transformation purposes, including modernization of the medicaid program, streamlining of health and human services programs in this state, and improving the quality, continuity, and efficiency of health care and health care support systems in this state.

(C) In furtherance of the authority of the executive director of the office of health transformation under division (B) of this section, the executive director or the executive director's designee shall identify each health transformation initiative in this state that involves the participation of two or more state agencies and that permits or requires an interagency agreement to be entered into for purposes of specifying each participating agency's role in coordinating, operating, or funding the initiative, or facilitating the exchange of data or other information for the initiative. The executive director shall publish a list of the identified health transformation initiatives on the internet web site maintained by the office of health transformation.

(D) For each health transformation initiative that is identified under division (C) of this section, the executive director or the executive director's designee shall, in consultation with each participating agency, adopt one or more

operating protocols. Notwithstanding any law enacted by the general assembly or rule adopted by a state agency, the provisions in a protocol shall supersede any provisions in an interagency agreement, including an interagency agreement entered into under section 5101.10 or 5111.91 of the Revised Code, that differ from the provisions of the protocol.

(E)(1) An operating protocol adopted under division (D) of this section shall include both of the following:

(a) All terms necessary to meet the requirements of "other arrangements" between a covered entity and a business associate that are referenced in 45 C.F.R. 164.314(a)(2)(ii);

(b) If known, the date on which the protocol will terminate or expire.

(2) In addition, a protocol may specify the extent to which each participating agency is responsible and accountable for completing the tasks necessary for successful completion of the initiative, including tasks relating to the following components of the initiative:

(a) Workflow;

(b) Funding;

(c) Exchange of data or other information that is confidential pursuant to state or federal law.

(F) An operating protocol adopted under division (D) of this section shall have the same force and effect as an interagency agreement or data sharing agreement, and each participating agency shall comply with it.

(G) The director of job and family services shall determine whether a waiver of federal medicaid requirements or a medicaid state plan amendment is necessary to fulfill the requirements of this section. If the director determines a waiver or medicaid

state plan amendment is necessary, the director shall apply to the United States secretary of health and human services for the waiver or amendment.

Sec. 306.04. (A) Except as otherwise provided in division (B) of this section, employees of a county transit board or a board of county commissioners operating a transit system are employees of the county. If the system is operated by the board of county commissioners, the board shall appoint an executive director, who shall be in the unclassified service.

(B) Any county transit board that established its own civil service organization and procedure prior to ~~the effective date of this amendment~~ October 25, 1995, shall continue to operate under that organization. Appointments and promotions in that system shall be made, as far as practicable, by competitive examination.

A board that established its own civil service organization prior to ~~the effective date of this amendment~~ October 25, 1995, shall establish by rule the seniority provisions relating to street railway and motor bus employees in effect at the time of the acquisition of the transit system by the county. The vacation, holiday, and sick leave privileges shall not be regulated by other provisions of law relating to public employees of the state or county, except that the transit board, its officers and employees, shall be subject to the public employees retirement system of the state and the transit board shall assume any pension obligations which have been assumed by any publicly owned transit system which the county may acquire.

(C) A county transit board or board of county commissioners operating a transit system may:

(1) Acquire in its name by gift, grant, purchase, or condemnation and hold and operate real estate and interests therein and personal property suitable for its purposes;

(2) In its name purchase, acquire, construct, enlarge, improve, equip, repair, maintain, sell, exchange, lease as lessee or lessor, receive a right of use of, and manage, control, and operate, in or out of the county, a county transit system consisting of all real estate and interests therein, personal property, and a combination thereof, for or related to the movement of persons including but not limited to street railway, tramline, subways, rapid transits, monorails, and passenger bus systems but excluding therefrom trucks, the movement of property by truck, and facilities designed for use in the movement of property by truck for hire;

(3) Issue, with the approval of the county commissioners when the issuance is made by the transit board, revenue bonds of the county as provided in division (B) of section 306.09 of the Revised Code, to secure funds to accomplish its purposes. The principal of and interest on such bonds, together with all other payments required to be made by the trust agreement or indenture securing such bonds, shall be paid solely from revenues or other income accruing to the board from facilities of the county transit system designated in said agreement or indenture.

(4) Enter into contracts in the exercise of the rights, powers, and duties conferred upon it, and execute all instruments necessary in the conduct of its business;

(5) Fix, alter, and charge rates and other charges for the use of its real estate and interests therein, personal property, and combinations thereof;

(6) Employ such financial consultants, accountants, appraisers, consulting engineers, architects, construction experts, attorneys-at-law, managers and other supervisory personnel, and other officers, employees, and agents as it determines necessary to conduct its business, and fix their compensation and duties;

(7) Pledge, hypothecate, or otherwise encumber its revenues and other income as security for its obligations and enter into trust agreements or indentures for the benefit of revenue bondholders;

(8) Borrow money or accept or contract to accept advances, loans, gifts, grants, devises, or bequests from and enter into contracts or agreements with any federal, state, or other governmental or private source and hold and apply advances, loans, gifts, grants, devises, or bequests according to the terms thereof including provisions which are required by such federal, state, or other governmental or private source to protect the interest of employees affected by such advances, loans, gifts, grants, devises, or bequests. Such advances, loans, gifts, grants, or devises may be subject to any reasonable reservation and any gift, grant, or devise or real estate may be in fee simple or any lesser estate. Any advances or loans received from any federal, state, or other governmental or private source may be repaid in accordance with the terms of such advance or loan.

(9) Conduct investigations and surveys into the needs of the public within or without the county for transportation services to provide for the movement of persons within, into, or from the area serviced or to be serviced by the county transit system;

(10) Enter into lawful arrangements with the appropriate federal or state department or agency, county, township, municipal corporation, or other political subdivision or public agency for the planning and installation of any public facilities which are determined necessary in the conduct of its business;

(11) Purchase fire, extended coverage, and liability insurance for the real estate and interests therein, personal property and any combination thereof, used by or in connection with the county transit system and insurance covering the board and the county transit system and its officers and employees for

liability for damage or injury to persons or property;

(12) Procure and pay all or any part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance, or a combination thereof, for the officers and employees of the county transit system and their immediate dependents, issued by an insurance company, duly authorized to do business in this state;

(13) Sell, lease, release, or otherwise dispose of real estate or interests therein or personal property owned by it and grant such easements across its real estate and interests therein as will not interfere with its use by the county transit system;

(14) Establish rules for the use and operation of the county transit system including the real estate or interests therein, personal property or a combination of the foregoing used by or in connection with such system;

(15) Exercise the power of eminent domain to appropriate any real estate or interests therein, personal property, franchises, or any combination thereof, within or without the county, necessary or proper in the exercise of its powers provided in sections 306.01 to 306.13 of the Revised Code, as provided in sections 163.01 to 163.22 of the Revised Code, and subject to divisions (15)(a), (b), and (c) of this section, provided that a county transit board or a board of county commissioners operating a transit system shall not proceed to so appropriate real property outside its territorial boundaries, until it has served at the office of the county commissioners of the county in which it is proposed to appropriate real property, a notice describing the real property to be taken and the purpose for which it is proposed to be taken, and such county commissioners have entered on their journal within thirty days after such service a resolution approving such appropriation;

(a) Nothing contained in this division authorizes a county transit board or a board of county commissioners to appropriate any land, rights, rights-of-way, franchises, or easements belonging to the state or to a municipal corporation without the consent of the state or of the municipal corporation, and no county transit board or board of county commissioners shall exercise the right of eminent domain to acquire any certificate of public convenience and necessity, or any part thereof, issued to a for-hire motor ~~transportation company~~ carrier by the public utilities commission of Ohio or by the ~~interstate commerce commission~~ federal motor carrier safety administration of the United States, or to take or disturb other real estate or interests therein, personal property, or any combination thereof belonging to any municipal corporation without the consent of the legislative authority of such municipal corporation, or take or disturb real estate or interests therein, personal property, or any combination thereof belonging to any other political subdivision, public corporation, public utility, or common carrier, which is necessary and convenient in the operation of such political subdivision, public corporation, public utility, or common carrier unless provision is made for the restoration, relocation, or duplication of that taken or upon the election of such political subdivision, public corporation, public utility, or common carrier for the payment of compensation, if any, at the sole cost of the county transit system.

(b) If any restoration or duplication proposed to be made under this division involves a relocation, the new location shall have at least comparable utilitarian value and effectiveness, and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(c) If such restoration or duplication proposed to be made under this division involves a relocation, the county transit

board or board of county commissioners shall acquire no interest or right in or to the appropriated property or facility until the relocated property or facility is available for use and until marketable title thereto has been transferred to the political subdivision, public corporation, public utility, or common carrier. Nothing in this division shall require any board of county commissioners or county transit board operating a county transit system to so restore, relocate, or duplicate, if all of the real estate and interests therein, personal property, and any combination of the foregoing which is owned by a public utility or common carrier and used by it or in connection with the movement of persons, is acquired by exercise of the power of eminent domain.

(16) When real property is acquired that is located outside the county and is removed from the tax duplicate, the county transit board or board of county commissioners operating a transit system shall pay annually to the county treasurer of the county in which that property is located, commencing with the first tax year in which that property is removed from the tax duplicate, an amount of money in lieu of taxes equal to the smaller of the following:

(a) The last annual installment of taxes due from the acquired property before removal from the tax duplicate;

(b) An amount equal to the difference between the combined revenue from real estate taxes of all the taxing districts in which the property is located in the tax year immediately prior to the removal of the acquired property from the tax duplicate, and either:

(i) The total revenue which would be produced by the tax rate of each such taxing district in the tax year immediately prior to the removal of the acquired property from the tax duplicate, applied to the real estate tax duplicate of each of such taxing

districts in each tax year subsequent to the year of removal; or

(ii) The combined revenue from real estate taxes of all such taxing districts in each tax year subsequent to the year of removal, whichever is the greater.

The county transit board or board of county commissioners may be exempted from such payment by agreement of the affected taxing district or districts in the county in which the property is located.

The county auditor of the county in which that property is located shall apportion each such annual payment to each taxing district as if the annual payment had been levied and collected as a tax.

Those annual payments shall never again be made after they have ceased.

(17) Sue or be sued, plead or be impleaded, and be held liable in any court of proper jurisdiction for damages received by reason of negligence, in the same manner and to the same extent as if the county transit system were privately operated, provided, that no funds of a county other than those of the county transit board or, if the transit system is operated by the board of county commissioners, other than those in the account for the county transit system created under division (C) of section 306.01 of the Revised Code, shall be available for the satisfaction of judgments rendered against that system;

(18) Annually prepare and make available for public inspection a report in condensed form showing the financial results of the operation of the county transit system. For systems operated by a county transit board, copies of this report shall be furnished to the county commissioners as well as a monthly summary statement of revenues and expenses for the preceding month sufficient to show the exact financial condition of the county

transit system as of the last day of the preceding month.

(19) With the approval of the county commissioners when the action is taken by the transit board, and without competitive bidding, sell, lease, or grant the right of use of all or a portion of the county transit system to any other political subdivision, taxing district, or other public body or agency having the power to operate a transit system;

(20) Enter into and supervise franchise agreements for the operation of a county transit system;

(21) Accept the assignment of and then supervise an existing franchise agreement for the operation of a county transit system.

Sec. 306.36. (A) The board of trustees of a regional transit authority may exercise the power of eminent domain to appropriate any land, rights, rights-of-way, franchise, power lines, easements, or other property, within or without the territorial boundaries of the regional transit authority, necessary or proper for the construction or efficient operation of any transit facility or access thereto under its jurisdiction pursuant to the procedure provided in sections 163.01 to 163.22, inclusive, of the Revised Code, and subject to division (B) of this section, provided that a regional transit authority shall not proceed to so appropriate real property outside its territorial boundaries, until it has served at the office of the county commissioners of the county in which it is proposed to appropriate real property, a notice describing the real property to be taken and the purpose for which it is proposed to be taken, and such county commissioners have entered on their journal within thirty days after such service a resolution approving such appropriation.

(B) Nothing contained in sections 306.30 to 306.53, inclusive, of the Revised Code authorizes a regional transit authority to appropriate any land, rights, rights-of-way,

franchises, or easements belonging to the state or a municipal corporation without the consent of the state or municipal corporation, and no regional transit authority shall exercise the right of eminent domain to acquire any certificate of public convenience and necessity, or any part thereof, issued to a for-hire motor ~~transportation company~~ carrier by the public utilities commission of Ohio or by the ~~interstate commerce commission of the United States~~ federal motor carrier safety administration, or to take or disturb other property or facilities belonging to any political subdivision, public corporation, public utility, or common carrier, which property or facility is necessary and convenient in the operation of such political subdivision, public corporation, public utility, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facility, or upon the election of such political subdivision, public corporation, public utility, or common carrier, for the payment of compensation, if any, at the sole cost of the regional transit authority, provided:

(1) If any restoration or duplication of any property or facility proposed to be made under this division involves a relocation of such property or facility the new facility and location thereof shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(2) If any restoration or duplication of any property or facility proposed to be made under this division involves a relocation of such property or facility, the regional transit authority shall acquire no interest or right in or to the appropriated property or facility until the relocated property or facility is available for use and until marketable title thereto has been transferred to the public utility or common carrier.

(C) When real property is acquired which is located outside the territorial boundaries of the regional transit authority and which is removed from the tax duplicate, the regional transit authority shall pay annually to the county treasurer of the county in which such property is located, commencing with the first tax year in which such property is removed from the tax duplicate, an amount of money in lieu of taxes equal to the smaller of the following:

(1) The last annual installment of taxes due from the acquired property before removal from the tax duplicate;

(2) An amount equal to the difference between the combined revenue from real estate taxes of all the taxing districts in which such property is located in the tax year immediately prior to the removal of such acquired property from the tax duplicate, and either:

(a) The total revenue which would be produced by the tax rate of each such taxing district in the tax year immediately prior to the removal of such acquired property from the tax duplicate, applied to the real estate tax duplicate of each of such taxing districts in each tax year subsequent to the year of removal; or

(b) The combined revenue from real estate taxes of all such taxing districts in each tax year subsequent to the year of removal, whichever is the greater.

The county auditor of each county in which such property is located shall apportion each such annual payment to each taxing district as if such annual payment has been levied and collected as a tax.

Such annual payments shall never again be made after they have ceased.

The regional transit authority may be exempted from such payment by agreement of the affected taxing district or districts

in the county in which such property is located.

Sec. 306.55. Beginning July 1, 2011 and until November 5, 2013, the legislative authority of any municipal corporation or the board of township trustees of any township that has created or joined a regional transit authority that levies a property tax and that includes in its membership political subdivisions that are located in a county having a population of at least four hundred thousand according to the most recent federal census, may withdraw the municipal corporation or the unincorporated territory of the township from the regional transit authority in the manner provided in this section. The legislative authority ~~of the municipal corporation~~ or board of township trustees ~~of the township~~ proposing to withdraw shall adopt a resolution to submit the question of withdrawing from the regional transit authority to the electors of the ~~territory~~ municipal corporation or the unincorporated area of the township to be withdrawn and shall certify the proposal to the board of elections for the purpose of having the proposal placed on the ballot at the next general election or at a special election conducted on the day of the next primary election that occurs not less than ninety days after the resolution is certified to the board of elections.

Upon certification of a proposal to the board of elections pursuant to this section, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the territory to be withdrawn from the regional transit authority qualified to vote on the question~~, and the~~. For a municipal corporation, the election shall be held, canvassed, and certified in the same manner as regular elections for the election of officers of the ~~subdivision~~ municipal corporation proposing to withdraw from the regional transit authority, except that the question appearing on the ballot of a municipal corporation shall read:

"Shall the territory within the ..... (~~Name~~ name of ~~political subdivision~~ municipal corporation to be withdrawn) be withdrawn from .... (~~Name~~ name of) regional transit authority)?"

For the unincorporated area of a township, the election shall be held, canvassed, and certified in the same manner as regular elections for the election of officers of the township, except that question shall only be presented to electors of the unincorporated area of the township and the question appearing on the ballot of the unincorporated area of the township shall read:

"Shall the territory of the unincorporated area of ..... (name of township to be withdrawn) be withdrawn from ..... (name of regional transit authority)?"

The legislative authority of a municipal corporation or board of trustees of a township, by vote of two-thirds of all members of the legislative authority or board, may adopt a resolution and certify that resolution to the board of elections for the combined purpose of withdrawing from a regional transit authority as provided in this section and levying a property tax pursuant to division (XX) of section 5705.19 of the Revised Code for a municipal corporation and section 5705.72 of the Revised Code for a township. If the questions are combined, the question appearing on the ballot shall be as provided in section 5705.252 of the Revised Code.

~~If the question is approved by at least a majority of the electors voting on the question, the withdrawal is effective six months from the date of the certification of its passage.~~

The board of elections to which the resolution was certified shall certify the results of the election to the board or legislative authority of the subdivision that submitted the resolution to withdraw and to the board of trustees of the

regional transit authority from which the subdivision proposed to withdraw. If the question is approved by at least a majority of the electors voting on the question, the municipal corporation's or unincorporated area of the township's membership in the regional transit authority terminates on the thirty-first day of December of the calendar year in which the election is held.

If the question of withdrawing from the regional transit authority is approved, the power of the regional transit authority to levy a tax on taxable property in the affected area of the withdrawing subdivision terminates beginning with the tax year in which the election is held, and no taxes from the levy may be charged for collection against such property for that tax year.

Sec. 307.05. As used in this section, "emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

A board of county commissioners may operate an ambulance service organization or emergency medical service organization, or, in counties with a population of forty thousand or less, may operate a nonemergency patient transport service organization, or may enter into a contract with one or more counties, townships, municipal corporations, nonprofit corporations, joint emergency medical services districts, fire and ambulance districts, or private ambulance owners, regardless of whether such counties, townships, municipal corporations, nonprofit corporations, joint emergency medical services districts, fire and ambulance districts, or private ambulance owners are located within or without the state, in order to furnish or obtain the services of ambulance service organizations, to furnish or obtain additional services from ambulance service organizations in times of emergency, to furnish or obtain the services of emergency medical service organizations, or, in counties with a population of forty

thousand or less, to furnish or obtain services of nonemergency patient transport service organizations, or may enter into a contract with any such entity to furnish or obtain the interchange of services from ambulance or emergency medical service organizations, or, within counties with a population of forty thousand or less, to furnish or obtain the interchange of services from nonemergency patient transport service organizations, within the territories of the contracting subdivisions. Except in the case of a contract with a joint emergency medical services district to obtain the services of emergency medical service organizations, such contracts shall not be entered into with a public agency or nonprofit corporation that receives more than half of its operating funds from governmental entities with the intention of directly competing with the operation of other ambulance service organizations, nonemergency patient transport service organizations, or emergency medical service organizations in the county unless the public agency or nonprofit corporation is awarded the contract after submitting the lowest and best bid to the board of county commissioners. Any county wishing to commence operation of a nonemergency patient transport service organization or wishing to enter into a contract for the first time to furnish or obtain services from a nonemergency patient transport service organization on or after March 1, 1993, including a county in which a private provider has been providing the service, shall demonstrate the need for public funding for the service to, and obtain approval from, the state board of emergency medical<u>, fire, and transportation</u> services or its immediate successor board prior to operating or funding the organization.

When such an organization is operated by the board, the organization may be administered by the board, by the county sheriff, or by another county officer or employee designated by the board. All rules, including the determining of reasonable rates, necessary for the establishment, operation, and maintenance

of such an organization shall be adopted by the board.

A contract for services of an ambulance service, nonemergency patient transport service, or emergency medical service organization shall include the terms, conditions, and stipulations as agreed to by the parties to the contract. It may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract, or for compensation based upon a stipulated price for each run, call, or emergency or the number of persons or pieces of apparatus employed, or the elapsed time of service required in such run, call, or emergency, or any combination thereof.

Sec. 307.051. As used in this section, "emergency medical service organization" has the same meaning as in section 4766.01 of the Revised Code.

A board of county commissioners, by adoption of an appropriate resolution, may choose to have the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services license any emergency medical service organization it operates. If a board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the county emergency medical service organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board, by adoption of an appropriate resolution, may remove its emergency medical service organization from the jurisdiction of the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services.

Sec. 307.055. (A) Subject to the terms and conditions of the joint resolution creating it, each joint emergency medical services district may furnish ambulance services and emergency medical services by one of the following methods:

(1) By operating an emergency medical service organization as defined in section 4765.01 of the Revised Code;

(2) By contracting for the operation of one or more facilities pursuant to division (C) or (D) of this section;

(3) By providing necessary services and equipment to the district either directly or under a contract entered into pursuant to division (B) of this section;

(4) By providing service through any combination of methods described in divisions (A)(1) to (3) of this section.

(B) In order to obtain ambulance service, to obtain additional ambulance service in times of emergency, or to obtain emergency medical services, a joint emergency medical services district may enter into a contract, for a period not to exceed three years, with one or more counties, townships, municipal corporations, joint fire districts, other governmental units that provide ambulance service or emergency medical services, nonprofit corporations, or private ambulance owners, regardless of whether the entities contracted with are located within or outside this state, upon such terms as are agreed to, to furnish or receive ambulance services or the interchange of ambulance services or emergency medical services within the several territories of the contracting subdivisions, if the contract is first authorized by all boards of trustees and legislative authorities in the territories to be served.

Such a contract may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract; or for compensation based on a stipulated price for each run, call, or emergency or based on the elapsed time of service required for each run, call, or emergency, or based on any combination of these.

Expenditures of a district for ambulance service or emergency

medical service, whether pursuant to contract or otherwise, are lawful expenditures, regardless of whether the district or the party with which it contracts charges an additional fee to users of the service.

(C) The board of trustees may enter into a contract with any person, municipal corporation, township, or other political subdivision, and any political subdivision may contract with the board, for the operation and maintenance of emergency medical services facilities regardless of whether the facilities used are owned or leased by the district, by another political subdivision, or by the contractor.

(D) The district may purchase, lease, and maintain all materials, buildings, land, and equipment, including vehicles, the board considers necessary for the district.

When the board finds, by resolution, that the district has personal property that is not needed for public use, or is obsolete or unfit for the use for which it was acquired, the board may dispose of the property in the same manner as provided in section 307.12 of the Revised Code.

(E) Except in the case of a contract with a board of county commissioners for the provision of services of an emergency medical service organization, any contract entered into by a joint emergency medical services district shall conform to the same bidding requirements that apply to county contracts under sections 307.86 to 307.92 of the Revised Code.

(F) A county participating in a joint district may contribute any of its rights or interests in real or personal property, including money, and may contribute services to the district. Any such contributions shall be made by a written agreement between the contributing county and the district, specifying the contribution as well as the rights of the participating counties

in the contributed property. Written agreements shall also be prepared specifying the rights of participating counties in property acquired by the district other than by contribution of a participating county. Written agreements required by this division may be amended only by written agreement of all parties to the original agreement.

(G) A district's board of trustees, by adoption of an appropriate resolution, may choose to have the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services license any emergency medical service organization the district operates. If a board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the district emergency medical service organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board, by adoption of an appropriate resolution, may remove the district emergency medical service organization from the jurisdiction of the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services.

Sec. 313.121. (A) As used in this section, "parent" means either parent, except that if one parent has been designated the residential parent and legal custodian of the child, "parent" means the designated residential parent and legal custodian, and if a person other than a parent is the child's legal guardian, "parent" means the legal guardian.

(B) If a child under two years of age dies suddenly when in apparent good health, the death shall be reported immediately to the coroner of the county in which the death occurred, as required by section 313.12 of the Revised Code. Except as provided in division (C) of this section, the coroner or deputy coroner shall perform an autopsy on the child. The autopsy shall be performed in accordance with ~~public health council~~ rules adopted by the

director of health under section 313.122 of the Revised Code. The coroner or deputy coroner may perform research procedures and tests when performing the autopsy.

(C) A coroner or deputy coroner is not required to perform an autopsy if the coroner of the county in which the death occurred or a court with jurisdiction over the deceased body determines under section 313.131 of the Revised Code that an autopsy is contrary to the religious beliefs of the child. If the coroner or the court makes such a determination, the coroner shall notify the health district or department of health with jurisdiction in the area in which the child's parent resides. For purposes of this division, the religious beliefs of the parents of a child shall be considered to be the religious beliefs of the child.

(D) If the child's parent makes a written or verbal request for the preliminary results of the autopsy after the results are available, the coroner, or a person designated by ~~him~~ the coroner, shall give the parent an oral statement of the preliminary results.

The coroner, within a reasonable time after the final results of the autopsy are reported, shall send written notice of the results to the state department of health, the health district or department with jurisdiction in the area in which the child's parent resides, and, upon the request of a parent of the child, to the child's attending physician. Upon the written request of a parent of the child and the payment of the transcript fee required by section 313.10 of the Revised Code, the coroner shall send written notice of the final results to that parent. The notice sent to the state department of health shall include all of the information specified ~~by rule of the public health council~~ in rules adopted under section 313.122 of the Revised Code.

(E) On the occurrence of any of the following, the health district or department with jurisdiction in the area in which the

child's parent resides shall offer the parent any counseling or other supportive services it has available:

(1) When it learns through any source that an autopsy is being performed on a child under two years of age who died suddenly when in apparent good health;

(2) When it receives notice that the final result of an autopsy performed pursuant to this section concluded that the child died of sudden infant death syndrome;

(3) When it is notified by the coroner that, pursuant to division (C) of this section, an autopsy was not performed.

(F) When a health district or department receives notice that the final result of an autopsy performed pursuant to this section concluded that the child died of sudden infant death syndrome or that, pursuant to division (C) of this section, an autopsy was not performed but sudden infant death syndrome may have been the cause of death, it shall offer the child's parent information about sudden infant death syndrome. The state department of health shall ensure that current information on sudden infant death syndrome is available for distribution by health districts and departments.

Sec. 313.122. The ~~public~~ director of health ~~council~~, after reviewing and considering any recommendations made by the Ohio state coroners association, shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a protocol governing the performance of autopsies under section 313.121 of the Revised Code. The rules shall specify the information derived from an autopsy that a coroner is required to report to the state department of health. The ~~public health council~~ director shall not amend the rules adopted under this section unless it notifies the Ohio state coroners association of the proposed changes and consults with the association.

Sec. 313.16. In counties where no coroner's laboratory has been established or where the coroner's laboratory does not have the equipment or personnel to follow the protocol established ~~by rule of~~ in rules adopted by the ~~public~~ director of health ~~council adopted~~ under section 313.122 of the Revised Code, the coroner may request a coroner of a county in which such a laboratory is established or that has a laboratory able to follow the ~~public health council's~~ director's protocol to perform necessary laboratory examinations, the cost of which shall be no greater than the actual value of the services of technicians and the materials used in performing such examination. Money derived from the fees paid for these examinations shall be kept in a special fund, for the use of the coroner's laboratory, from which fund replacements can be made. Such funds shall be used to purchase necessary supplies and equipment for the laboratory and to pay any associated costs incurred in the administration of this section at the coroner's discretion.

Sec. 329.01. In each county, except as provided in section 329.40 of the Revised Code, there shall be a county department of job and family services which, when so established, shall be governed by this chapter. The department shall consist of a county director of job and family services appointed by the board of county commissioners, and such assistants and other employees as are necessary for the efficient performance of the functions of the county department. Before entering upon the discharge of the director's official duties, the director shall give a bond, conditioned for the faithful performance of those official duties, in such sum as fixed by the board. The director may require any assistant or employee under the director's jurisdiction to give a bond in such sum as determined by the board. All bonds given under this section shall be with a surety or bonding company authorized

to do business in this state, conditioned for the faithful performance of the duties of such director, assistant, or employee. The expense or premium for any bond required by this section shall be paid from the appropriation for administrative expenses of the department. Such bond shall be deposited with the county treasurer and kept in the treasurer's office.

As used in the Revised Code:

(A) "County department of job and family services" means the county department of job and family services established under this section, including an entity designated a county department of job and family services under section 307.981 of the Revised Code, or ~~the~~ a joint county department of job and family services established under section 329.40 of the Revised Code.

(B) "County director of job and family services" means the county director of job and family services appointed under this section or under section 329.41 of the Revised Code.

Sec. 329.40. (A)(1) The boards of county commissioners of ~~the~~ any two or more counties ~~of Hocking, Ross, and Vinton~~, by entering into a written agreement, may form a joint county department of job and family services to perform the duties, provide the services, and operate the programs required under this chapter. ~~The formation of this joint county department of job and family services is a pilot project.~~ The agreement shall be ratified by resolution of the board of county commissioners of each county that entered into the agreement. Each board of county commissioners that enters into ~~the~~ an agreement shall give notice of the agreement to the Ohio department of job and family services at least ninety days before the agreement's effective date. The agreement shall take effect not earlier than the first day of the calendar quarter following the ninety-day notice period. The director of job and family services shall adopt, as an internal

management rule under section 111.15 of the Revised Code, the form in which the notice shall be given.

(2) The boards of county commissioners of the counties forming ~~the~~ a joint county department shall constitute, collectively, the board of directors of the joint county department of job and family services. On the effective date of the agreement, the board of directors shall take control of and manage the joint county department subject to this chapter and all other sections of the Revised Code that govern the authority and responsibilities of a single board of county commissioners in the operation of a single county department of job and family services.

(B)(1) ~~The~~ An agreement to establish ~~the~~ a joint county department shall specify all of the following:

(a) The obligations of each board of county commissioners in operating the joint county department, including requiring each board to provide state, federal, and county funds to the operation of the joint county department and the schedule for provision of those funds;

(b) How and which facilities, equipment, and personnel will be shared;

(c) Procedures for the division of resources and obligations ~~should a county~~ if one or more counties withdraw from the joint county department~~,~~ or ~~should~~ the department ~~cease~~ ceases to exist;

(d) Any contributions of participating counties establishing the joint county department and the rights of those counties in lands or personal property, or rights or interests therein, contributed to or otherwise acquired by the joint county department.

(2) ~~The~~ An agreement to establish ~~the~~ a joint county

department may set forth any or all of the following:

(a) Quality, timeliness, and other standards to be met by each county;

(b) Which family service programs and functions are to be included in the joint county department;

(c) Procedures for the operation of the board of directors, including procedures governing the frequency of meetings and the number of members of the board required to constitute a quorum to take action;

(d) Any other procedures or standards necessary for the joint county department to perform its duties and operate efficiently.

(C) ~~The~~ An agreement may be amended by a majority vote of the board of directors of the joint county department, but no amendment shall divest a participating county of any right or interest in lands or personal property without its consent.

(D) Costs incurred in operating ~~the~~ a joint county department shall be paid from a joint general fund created by the board of directors, except as may be otherwise provided in the agreement.

(E) A joint county department established under this section is a public office as defined in section 117.01 of the Revised Code.

Sec. 329.41. (A) The board of directors of ~~the~~ a joint county department of job and family services formed under section 329.40 of the Revised Code shall appoint and fix the compensation of ~~a~~ the director of the department. The director shall serve at the pleasure of the board of directors. Under the direction and control of the board, the director shall have full charge of the department as set forth in section 329.02 of the Revised Code for the director of a single county department of job and family services.

(B) The board of directors may appoint up to three administrators to oversee services provided by the joint county department. Administrators shall be in the unclassified service.

(C) Employees of ~~the~~ a joint county department of job and family services shall be appointed by the director of the joint county department and, except as provided in this section, shall be in the classified service. The employees of ~~the~~ a joint county department shall be considered county employees for the purposes of Chapter 124. of the Revised Code and other provisions of state law applicable to county employees. Instead of or in addition to appointing these employees, ~~the~~ a board of directors may agree to use the employees of one or more of the counties that formed ~~the~~ a joint county department in the service of the joint county department and to share in their compensation in any manner that may be agreed upon.

(D) Notwithstanding any other section of the Revised Code, if an employee's separation from county service occurs in connection with a county joining or withdrawing from ~~the~~ a joint county department of job and family services, the board of county commissioners that initially appointed the employee shall have no obligation to pay any compensation with respect to unused vacation or sick leave accrued to the credit of the employee if the employee accepts employment with the joint county department or a withdrawing county. At the effective time of separation from county service, the joint county department or the withdrawing county, as the case may be, shall assume such unused vacation and sick leave accrued to the employee's credit.

Sec. 329.42. The county auditor of the county with the largest population that formed ~~the~~ a joint county department of job and family services under section 329.40 of the Revised Code shall serve as the fiscal officer of the joint county department,

and the county treasurer of that county shall serve as the treasurer of the joint county department, unless the counties that formed the joint county department agree to appoint the county auditor and county treasurer of another county that formed the department. In either case, these county officers shall perform any applicable duties for the joint county department as each typically performs for the county of which the individual is an officer. The board of directors of the joint county department may pay to that county any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse the county for the costs that are properly allocable to the service of its officers as fiscal officer and treasurer of the joint county department.

Sec. 329.43. (A) The prosecuting attorney of the county with the largest population that formed ~~the~~ a joint county department of job and family services under section 329.40 of the Revised Code shall serve as the legal advisor of the board of directors of the joint county department, unless the counties that formed the joint county department agree to appoint the prosecuting attorney of another county that formed the joint county department as legal advisor of the board. The board of directors may pay to the county of the prosecuting attorney who is the legal advisor of the board any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse that county for the costs that are properly allocable to the service of its prosecuting attorney as the legal advisor of the board of directors.

(B) The prosecuting attorney shall provide such services to the board of directors as are required or authorized to be provided to other county boards under Chapter 309. of the Revised Code.

(C)(1) If the board of directors of ~~the~~ a joint county department wishes to employ other legal counsel on an annual basis to serve as the board's legal advisor in place of the prosecuting attorney, the board may do so with the agreement of the prosecuting attorney. If the prosecuting attorney does not agree, the board of directors may apply to the court of common pleas of the county with the largest population that formed the joint county department for authority to employ other legal counsel on an annual basis.

(2) If the board of directors of ~~the~~ a joint county department wishes to employ other legal counsel to represent or advise the board on a particular matter in place of the prosecuting attorney, the board may do so with the agreement of the prosecuting attorney. If the prosecuting attorney does not agree, the board of directors may apply to the court of common pleas of the county with the largest population that formed the joint county department for authority to employ other legal counsel for that particular matter.

(3) The prosecuting attorney who is the legal advisor of the board of directors shall be given notice of an application filed under division (C)(1) or (2) of this section and shall be afforded an opportunity to be heard. After the hearing, the court may authorize the board of directors to employ other legal counsel on an annual basis or for a particular matter only if it finds that the prosecuting attorney refuses or is unable to provide the legal services that the board requires. If the board of directors employs other legal counsel on an annual basis or for a particular matter, the board may not require the prosecuting attorney to provide legal advice, opinions, or other legal services during the period or to the extent that the board employs the other legal counsel.

Sec. 329.44. (A) ~~A~~ The board of directors of ~~the~~ a joint county department of job and family services formed under section 329.40 of the Revised Code may acquire, by purchase or lease, real property, equipment, and systems to improve, maintain, or operate family service programs within the territory served by the joint county department. A board of county commissioners may acquire, within its county, real property or any estate, interest, or right therein, by appropriation or any other method, for use by the joint county department in connection with its provision of services. Appropriation proceedings shall be conducted in accordance with Chapter 163. of the Revised Code.

(B) A board of county commissioners that formed ~~the~~ a joint county department may contribute lands or rights or interests therein, money, other personal property or rights or interests therein, or services to the joint county department. The board of county commissioners may issue bonds or bond anticipation notes of the county to pay the cost of acquiring real property and of constructing, modifying, or upgrading a facility to house employees of the joint county department. The board of directors of ~~the~~ a joint county department may reimburse the county for the use of such a facility if it is required to do so under the agreement entered into under section 329.40 of the Revised Code.

Sec. 329.45. (A)(1) A board of county commissioners that has entered into an agreement under section 329.40 of the Revised Code establishing a joint county department of job and family services may ~~pass~~ adopt a resolution requesting to withdraw from the agreement ~~establishing the joint county department of job and family services formed under section 329.40 of the Revised Code~~. Upon adopting such a resolution, the board of county commissioners shall deliver a copy of the resolution to the board of directors of the joint county department. Upon receiving the resolution, the

board of directors shall deliver written notice of the requested withdrawal to the boards of county commissioners of the other county or counties that formed the joint county department. ~~Within~~ Not later than thirty days after receiving the notice, each of those boards of county commissioners shall adopt a resolution either accepting the withdrawal or objecting to the withdrawal, and shall deliver a copy of the resolution to the board of directors.

(2) If any of the boards of county commissioners that formed ~~the~~ a joint county department adopts a resolution objecting to the requested withdrawal, the board of directors shall deliver written notice of the objection to each other board of county commissioners of the counties that formed the joint county department, including the board of county commissioners of the county proposing withdrawal~~, and shall schedule~~. Not later than thirty days after sending the notice, the board of directors shall hold a meeting ~~of the board of directors to be held within thirty days~~ to discuss the objection. After the meeting, the board of directors shall determine whether the county requesting withdrawal desires to proceed with the withdrawal and, if the county does, the board of directors shall accept the withdrawal. Not later than thirty days after the determination was made, the board of directors shall deliver written notice of the withdrawal to the boards of county commissioners that formed the joint county department and to the board of county commissioners that requested withdrawal, and shall commence the withdrawal process under this section.

(3) If all of the boards of county commissioners that formed ~~the~~ a joint county department, except for the board of county commissioners requesting the withdrawal, each adopt a resolution accepting the withdrawal, the board of directors shall declare the withdrawal to be accepted. Not later than thirty days after the

declaration, the board of directors shall deliver written notice of the withdrawal to all of the boards of county commissioners that formed the joint county department, including the board of county commissioners of the county requesting withdrawal, and shall commence the withdrawal process under this section.

(4) The board of directors shall give notice to the Ohio department of job and family services of the withdrawal of a county under this section at least ninety days before the withdrawal becomes final. The director of job and family services shall adopt, as an internal management rule under section 111.15 of the Revised Code, the form in which the notice shall be given.

(5) If a county requesting to withdraw decides to remain as a party to the agreement establishing ~~the~~ a joint county department, the board of county commissioners of that county shall rescind its original resolution requesting withdrawal and shall deliver a copy of the rescission to the board of directors of the joint county department ~~within~~ not later than thirty days after adopting the rescission.

(B) If a county withdraws from ~~the~~ an agreement under this section, the board of directors shall ascertain, apportion, and order a division of the funds on hand, credits, and real and personal property of the joint county department, either in money or in kind, on an equitable basis between the joint county department and the withdrawing county according to the agreement entered into under section 329.40 of the Revised Code and consistent with any prior contributions of the withdrawing county to the joint county department. Any debt incurred individually shall remain the responsibility of that county, unless otherwise specified in the agreement establishing the joint county department.

(C) A withdrawal becomes final not earlier than the first day of the calendar quarter following the ninety-day notice period

required by division (A)(4) of this section. On and after that day, the withdrawing county ceases to be a part of the joint county department, and its members of the board of directors shall cease to be members of that board.

(D) If the withdrawal of one or more counties would leave only one county participating in ~~the~~ a joint county department, the board of directors shall ascertain, apportion, and order a final division of the funds on hand, credits, and real and personal property of the joint county department. On and after the day on which the latest withdrawal of a county becomes final, the joint county department is dissolved. When ~~the~~ a joint county department is dissolved and any indebtedness remains unpaid, the boards of county commissioners that formed the joint county department shall pay the indebtedness of the joint county department in the amounts established by the agreement at the time the indebtedness was incurred.

Sec. 329.46. (A) A board of county commissioners that formed ~~the~~ a joint county department of job and family services under section 329.40 of the Revised Code, by adopting a resolution, may propose the removal of another county that formed the joint county department. The board of county commissioners shall send a copy of such a resolution to the board of directors of the joint county department. ~~Within~~ Not later than ten days after receiving the copy of the resolution, the board of directors shall send a copy of the resolution to each board of county commissioners that formed the joint county department, except the board of county commissioners proposing removal. ~~Within~~ Not later than thirty days after sending a copy of the resolution, the board of directors shall hold a hearing at which any county commissioner whose county formed the joint county department may present arguments for or against the removal. At the hearing, approval or disapproval of the removal shall be determined by a two-thirds vote of the county

commissioners of the counties that formed the joint county department, with the exception of the county commissioners of the county proposed for removal.

(B) The board of directors of ~~the~~ a joint county department of job and family services, by adopting a resolution by a majority vote of the members of the board, may propose removal of a county that formed the joint county department. ~~Within~~ Not later than ten days after adopting such a resolution, the board of directors shall send a copy of the resolution to the board of county commissioners of each county that formed the joint county department, including the board of county commissioners of the county proposed for removal. ~~Within~~ Not later than thirty days after sending the copy of the resolution, the board of directors shall hold a hearing at which any member of the board may present arguments for or against the removal. At this hearing, approval or disapproval of the resolution proposing removal shall be determined by a two-thirds vote of the members of the board of directors, with the exception of the board members who represent the county proposed for removal.

(C) If removal of a county is approved under this section, the board of directors shall give written notice of the approval to the Ohio department of job and family services at least ninety days before the removal takes effect. The director of job and family services shall adopt, as an internal management rule under section 111.15 of the Revised Code, the form in which the notice shall be given.

(D) Removal of a county under this section shall take effect not earlier than the first day of the calendar quarter following the ninety-day notice period required by division (C) of this section.

(E) If, at any time, the county proposed for removal under

division (A) or (B) of this section notifies the board of directors, by a majority vote of that county's board of county commissioners, that it chooses to withdraw from the joint county department, the withdrawal procedure established under section 329.45 of the Revised Code shall be put immediately into motion.

Sec. 330.04. If, for the purpose of Chapter 6301. of the Revised Code, a county is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code, the board of county commissioners serving the county shall adopt a resolution establishing or designating a workforce development agency to provide workforce development activities for the county. The board shall adopt the resolution not later than July 1, 2000.

The board may establish or designate any of the following as the workforce development agency:

(A) The county department of job and family services;

(B) A separate agency under the direct control of the board and administered by an official appointed by the board;

(C) An entity serving the county on ~~the effective date of this section~~ March 14, 2000, in a capacity similar to the capacity in which a workforce development agency is to serve the county on and after ~~the effective date of this section~~ March 14, 2000;

(D) An entity located in or outside the county that provides workforce development activities in the county on ~~the effective date of this section~~ March 14, 2000;

(E) Any private or government entity designated under section 307.981 of the Revised Code;

(F) ~~The~~ A joint county department of job and family services established under section 329.40 of the Revised Code.

Sec. 339.091. Before the board of county commissioners, board

of county hospital trustees, or county hospital commission may enter into an initial agreement for the acquisition, operation, or lease under section 140.03, 140.05, 339.09, or 339.14 of the Revised Code of a county hospital operated by a board of county hospital trustees under section 339.06 of the Revised Code, the board of county commissioners shall review the agreement. If it finds that the agreement will meet the needs of the residents of the county for hospital service, the board of county commissioners may adopt a resolution authorizing the board of county commissioners, board of county hospital trustees, or county hospital commission to enter into the agreement. On adoption of the resolution, the board of county commissioners, board of county hospital trustees, or county hospital commission may enter into the agreement.

The requirements of this section do not apply to an agreement if one or more hospitals classified as general hospitals by the ~~public~~ director of health ~~council~~ under section 3701.07 of the Revised Code are operating in the same county as the county hospital.

Sec. 340.03. (A) Subject to rules issued by the director of mental health after consultation with relevant constituencies as required by division (L) of section 5119.06 of the Revised Code, with regard to mental health services, the board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facilities and community mental health services;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the

community mental health needs, set priorities, and develop plans for the operation of facilities and community mental health services;

(c) In accordance with guidelines issued by the director of mental health after consultation with board representatives, annually develop and submit to the department of mental health a community mental health plan listing community mental health needs, including the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents; all children subject to a determination made pursuant to section 121.38 of the Revised Code; and all the facilities and community mental health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs.

The plan shall include, but not be limited to, a statement of which of the services listed in section 340.09 of the Revised Code the board intends to make available. The board must include crisis intervention services for individuals in an emergency situation in the plan and explain how the board intends to make such services available. The plan must also include a statement of the inpatient and community-based services the board proposes that the department operate, an assessment of the number and types of residential facilities needed, such other information as the department requests, and a budget for moneys the board expects to receive. The department shall approve or disapprove the plan, in whole or in part, according to the criteria developed pursuant to section 5119.61 of the Revised Code. The department's statement of approval or disapproval shall specify the inpatient and the community-based services that the department will operate for the board. Eligibility for state and federal funding shall be contingent upon an approved plan or relevant part of a plan.

If a board determines that it is necessary to amend a plan or an allocation request that has been approved under division (A)(1)(c) of this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall implement the plan approved by the department.

(d) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community mental health agency as defined in section 5122.01 of the Revised Code~~,~~ or ~~from~~ alleging abuse or neglect of a person with mental illness or severe mental disability residing in a residential facility licensed under section 5119.22 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.611 of the Revised Code, cooperate with the director of mental health in visiting and evaluating whether the services of a community mental health

agency satisfy the certification standards established by rules adopted under that section;

(4) In accordance with criteria established under division (E) of section 5119.61 of the Revised Code, review and evaluate the quality, effectiveness, and efficiency of services provided through its community mental health plan and submit its findings and recommendations to the department of mental health;

(5) In accordance with section 5119.22 of the Revised Code, review ~~applications~~ an application for a residential facility ~~licenses~~ license and ~~recommend~~ provide to the department of mental health ~~approval or disapproval of applications~~ any information about the applicant or facility that the board would like the department to consider in reviewing the application;

(6) Audit, in accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually all programs and services provided under contract with the board. In so doing, the board may contract for or employ the services of private auditors. A copy of the fiscal audit report shall be provided to the director of mental health, the auditor of state, and the county auditor of each county in the board's district.

(7) Recruit and promote local financial support for mental health programs from private and public sources;

(8)(a) Enter into contracts with public and private facilities for the operation of facility services included in the board's community mental health plan and enter into contracts with public and private community mental health agencies for the provision of community mental health services that are listed in section 340.09 of the Revised Code and included in the board's community mental health plan. The board may not contract with a community mental health agency to provide community mental health

services included in the board's community mental health plan unless the services are certified by the director of mental health under section 5119.611 of the Revised Code. Section 307.86 of the Revised Code does not apply to contracts entered into under this division. In contracting with a community mental health agency, a board shall consider the cost effectiveness of services provided by that agency and the quality and continuity of care, and may review cost elements, including salary costs, of the services to be provided. A utilization review process shall be established as part of the contract for services entered into between a board and a community mental health agency. The board may establish this process in a way that is most effective and efficient in meeting local needs. Until July 1, 2012, a contract with a community mental health agency or facility, as defined in section 5111.023 of the Revised Code, to provide services listed in division (B) of that section shall provide for the agency or facility to be paid in accordance with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and any rules adopted under division (A) of section 5119.61 of the Revised Code.

If either the board or a facility or community mental health agency with which the board contracts under division (A)(8)(a) of this section proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this one hundred twenty-day period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may ~~request that~~ notify the department of mental health of the unresolved dispute. The director may require both parties to submit the dispute to a

third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board ~~and~~, the facility or agency, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the

director determines that it is not feasible to have the department operate the facility or provide the service.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(iii) of this section unless the director determines that the board will provide greater administrative efficiency and more or better services than would be available if the board contracted with a private or public facility or community mental health agency.

The director shall not give a board approval to operate a facility previously operated by a person or other government entity unless the board has established to the director's satisfaction that the person or other government entity cannot effectively operate the facility or that the person or other government entity has requested the board to take over operation of the facility. The director shall not give a board approval to provide a community mental health service previously provided by a community mental health agency unless the board has established to the director's satisfaction that the agency cannot effectively provide the service or that the agency has requested the board take over providing the service.

The director shall review and evaluate a board's operation of a facility and provision of community mental health service under division (A)(8)(b) of this section.

Nothing in division (A)(8)(b) of this section authorizes a board to administer or direct the daily operation of any facility or community mental health agency, but a facility or agency may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or agency.

(9) Approve fee schedules and related charges or adopt a unit

cost schedule or other methods of payment for contract services provided by community mental health agencies in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a community support system, which provides for treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but are not limited to, the following components in accordance with section 5119.06 of the Revised Code:

(a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;

(b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;

(c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;

(d) Emergency services and crisis intervention;

(e) Assistance for clients to obtain vocational services and opportunities for jobs;

(f) The provision of services designed to develop social, community, and personal living skills;

(g) Access to a wide range of housing and the provision of residential treatment and support;

(h) Support, assistance, consultation, and education for

families, friends, consumers of mental health services, and others;

(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;

(j) Grievance procedures and protection of the rights of consumers of mental health services;

(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.

(12) Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.

(13) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary

hospitalization and what alternative treatment is available and appropriate, if any;

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community mental health agency have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community mental health agency. This division does not apply to residential facilities licensed pursuant to section 5119.22 of the Revised Code.

(15) Establish a mechanism for involvement of consumer recommendation and advice on matters pertaining to mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties ~~under section 5119.88 of the Revised Code~~ required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability to ~~adult care~~ residential facilities as defined in division (A)(9)(b) of section 5119.22 of the Revised Code and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health

services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No board member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section, section 340.033, or any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a board member or employee of a board taken within the scope of the board member's official duties or employee's employment. For the purposes of this division, the conduct of a board member or employee shall not be considered willful or wanton misconduct if the board member or employee acted in good faith and in a manner that the board member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

Sec. 340.05. A community mental health agency that receives a complaint ~~under section 5119.87 of the Revised Code~~ alleging abuse or neglect of an individual with mental illness or severe mental disability who resides in ~~an adult care~~ a residential facility as defined in division (A)(9)(b) of section 5119.22 of the Revised Code shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the ~~adult care~~ residential facility is located. A board of alcohol, drug addiction, and mental health services that receives such a complaint or a report from a community mental health agency of such a complaint shall report the complaint to the director of mental health for the purpose of the director conducting an investigation under section ~~5119.87~~ 5119.22 of the Revised Code. The board may enter the ~~adult care~~ facility with or without the director and, if the health and safety of a resident is in immediate danger, take any necessary action to protect the resident. The board's action shall not violate any resident's rights ~~under section 5119.81 of the Revised Code and~~ specified in rules adopted by the department of mental health under ~~sections 5119.70 to 5119.88~~ section 5119.22 of the Revised Code. The board shall immediately report to the director regarding the board's actions under this section.

Sec. 340.091. Each board of alcohol, drug addiction, and mental health services shall contract with a community mental health agency under division (A)(7)(a) of section 340.03 of the Revised Code for the agency to do all of the following in accordance with rules adopted under section 5119.61 of the Revised Code for an individual referred to the agency under division ~~(C)~~(D)(2) of section 5119.69 of the Revised Code:

(A) Assess the individual ~~to determine whether to recommend~~

~~that a residential state supplement administrative agency designated under section 5119.69 of the Revised Code determine~~ and, if the agency determines that the environment in which the individual will be living while receiving residential state supplement payments is appropriate for the individual's needs ~~and, if it determines the environment is appropriate~~, issue ~~the~~ a recommendation to the referring residential state supplement administrative agency that the referring agency should conclude that the living environment is appropriate when it makes its determination regarding the appropriateness of the environment;

(B) Provide ongoing monitoring to ensure that services provided under section 340.09 of the Revised Code are available to the individual;

(C) Provide discharge planning to ensure the individual's earliest possible transition to a less restrictive environment.

Sec. 505.37. (A) The board of township trustees may establish all necessary rules to guard against the occurrence of fires and to protect the property and lives of the citizens against damage and accidents, and may, with the approval of the specifications by the prosecuting attorney or, if the township has adopted limited home rule government under Chapter 504. of the Revised Code, with the approval of the specifications by the township's law director, purchase, lease, lease with an option to purchase, or otherwise provide any fire apparatus, mechanical resuscitators, or other equipment, appliances, materials, fire hydrants, and water supply for fire-fighting purposes that seems advisable to the board. The board shall provide for the care and maintenance of fire equipment, and, for these purposes, may purchase, lease, lease with an option to purchase, or construct and maintain necessary buildings, and it may establish and maintain lines of fire-alarm communications within the limits of the township. The board may

employ one or more persons to maintain and operate fire-fighting equipment, or it may enter into an agreement with a volunteer fire company for the use and operation of fire-fighting equipment. The board may compensate the members of a volunteer fire company on any basis and in any amount that it considers equitable.

When the estimated cost to purchase fire apparatus, mechanical resuscitators, other equipment, appliances, materials, fire hydrants, buildings, or fire-alarm communications equipment or services exceeds fifty thousand dollars, the contract shall be let by competitive bidding. When competitive bidding is required, the board shall advertise once a week for not less than two consecutive weeks in a newspaper of general circulation within the township. The board may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the board's internet web site. If the board posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the township, provided that the first notice published in such newspaper meets all of the following requirements:

(1) It is published at least two weeks before the opening of bids.

(2) It includes a statement that the notice is posted on the board's internet web site.

(3) It includes the internet address of the board's internet web site.

(4) It includes instructions describing how the notice may be accessed on the board's internet web site.

The advertisement shall include the time, date, and place where the clerk of the township, or the clerk's designee, will

read bids publicly. The time, date, and place of bid openings may be extended to a later date by the board of township trustees, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications not later than ninety-six hours prior to the original time and date fixed for the opening. The board may reject all the bids or accept the lowest and best bid, provided that the successful bidder meets the requirements of section 153.54 of the Revised Code when the contract is for the construction, demolition, alteration, repair, or reconstruction of an improvement.

(B) The boards of township trustees of any two or more townships, or the legislative authorities of any two or more political subdivisions, or any combination of these, may, through joint action, unite in the joint purchase, lease, lease with an option to purchase, maintenance, use, and operation of fire-fighting equipment, or for any other purpose designated in sections 505.37 to 505.42 of the Revised Code, and may prorate the expense of the joint action on any terms that are mutually agreed upon.

(C) The board of township trustees of any township may, by resolution, whenever it is expedient and necessary to guard against the occurrence of fires or to protect the property and lives of the citizens against damages resulting from their occurrence, create a fire district of any portions of the township that it considers necessary. The board may purchase, lease, lease with an option to purchase, or otherwise provide any fire apparatus, appliances, materials, fire hydrants, and water supply for fire-fighting purposes, or may contract for the fire protection for the fire district as provided in section 9.60 of the Revised Code. The fire district so created shall be given a separate name by which it shall be known.

Additional unincorporated territory of the township may be

added to a fire district upon the board's adoption of a resolution authorizing the addition. A municipal corporation that is within or adjoining the township may be added to a fire district upon the board's adoption of a resolution authorizing the addition and the municipal legislative authority's adoption of a resolution or ordinance requesting the addition of the municipal corporation to the fire district.

If the township fire district imposes a tax, additional unincorporated territory of the township or a municipal corporation that is within or adjoining the township shall become part of the fire district only after all of the following have occurred:

(1) Adoption by the board of township trustees of a resolution approving the expansion of the territorial limits of the district and, if the resolution proposes to add a municipal corporation, adoption by the municipal legislative authority of a resolution or ordinance requesting the addition of the municipal corporation to the district;

(2) Adoption by the board of township trustees of a resolution recommending the extension of the tax to the additional territory;

(3) Approval of the tax by the electors of the territory proposed for addition to the district.

Each resolution of the board adopted under division (C)(2) of this section shall state the name of the fire district, a description of the territory to be added, and the rate and termination date of the tax, which shall be the rate and termination date of the tax currently in effect in the fire district.

The board of trustees shall certify each resolution adopted under division (C)(2) of this section to the board of elections in

accordance with section 5705.19 of the Revised Code. The election required under division (C)(3) of this section shall be held, canvassed, and certified in the manner provided for the submission of tax levies under section 5705.25 of the Revised Code, except that the question appearing on the ballot shall read:

"Shall the territory within ..... (description of the proposed territory to be added) be added to ..... (name) fire district, and a property tax at a rate of taxation not exceeding ..... (here insert tax rate) be in effect for ..... (here insert the number of years the tax is to be in effect or "a continuing period of time," as applicable)?"

If the question is approved by at least a majority of the electors voting on it, the joinder shall be effective as of the first day of July of the year following approval, and on that date, the township fire district tax shall be extended to the taxable property within the territory that has been added. If the territory that has been added is a municipal corporation and if it had adopted a tax levy for fire purposes, the levy is terminated on the effective date of the joinder.

Any municipal corporation may withdraw from a township fire district created under division (C) of this section by the adoption by the municipal legislative authority of a resolution or ordinance ordering withdrawal. On the first day of July of the year following the adoption of the resolution or ordinance of withdrawal, the municipal corporation withdrawing ceases to be a part of the district, and the power of the fire district to levy a tax upon taxable property in the withdrawing municipal corporation terminates, except that the fire district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the fire district as it was composed at the time the indebtedness was incurred.

Upon the withdrawal of any municipal corporation from a township fire district created under division (C) of this section, the county auditor shall ascertain, apportion, and order a division of the funds on hand, moneys and taxes in the process of collection except for taxes levied for the payment of indebtedness, credits, and real and personal property, either in money or in kind, on the basis of the valuation of the respective tax duplicates of the withdrawing municipal corporation and the remaining territory of the fire district.

A board of township trustees may remove unincorporated territory of the township from the fire district upon the adoption of a resolution authorizing the removal. On the first day of July of the year following the adoption of the resolution, the unincorporated township territory described in the resolution ceases to be a part of the district, and the power of the fire district to levy a tax upon taxable property in that territory terminates, except that the fire district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the fire district as it was composed at the time the indebtedness was incurred.

(D) The board of township trustees of any township, the board of fire district trustees of a fire district created under section 505.371 of the Revised Code, or the legislative authority of any municipal corporation may purchase, lease, or lease with an option to purchase the necessary fire-fighting equipment, buildings, and sites for the township, fire district, or municipal corporation and issue securities for that purpose with maximum maturities as provided in section 133.20 of the Revised Code. The board of township trustees, board of fire district trustees, or legislative authority may also construct any buildings necessary to house fire-fighting equipment and issue securities for that purpose with maximum maturities as provided in section 133.20 of the Revised

Code.

The board of township trustees, board of fire district trustees, or legislative authority may issue the securities of the township, fire district, or municipal corporation, signed by the board or designated officer of the municipal corporation and attested by the signature of the township fiscal officer, fire district clerk, or municipal clerk, covering any deferred payments and payable at the times provided, which securities shall bear interest not to exceed the rate determined as provided in section 9.95 of the Revised Code, and shall not be subject to Chapter 133. of the Revised Code. The legislation authorizing the issuance of the securities shall provide for levying and collecting annually by taxation, amounts sufficient to pay the interest on and principal of the securities. The securities shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

Section 505.40 of the Revised Code does not apply to any securities issued, or any lease with an option to purchase entered into, in accordance with this division.

(E) A board of township trustees of any township or a board of fire district trustees of a fire district created under section 505.371 of the Revised Code may purchase a policy or policies of liability insurance for the officers, employees, and appointees of the fire department, fire district, or joint fire district governed by the board that includes personal injury liability coverage as to the civil liability of those officers, employees, and appointees for false arrest, detention, or imprisonment, malicious prosecution, libel, slander, defamation or other violation of the right of privacy, wrongful entry or eviction, or other invasion of the right of private occupancy, arising out of the performance of their duties.

When a board of township trustees cannot, by deed of gift or

by purchase and upon terms it considers reasonable, procure land for a township fire station that is needed in order to respond in reasonable time to a fire or medical emergency, the board may appropriate land for that purpose under sections 163.01 to 163.22 of the Revised Code. If it is necessary to acquire additional adjacent land for enlarging or improving the fire station, the board may purchase, appropriate, or accept a deed of gift for the land for these purposes.

(F) As used in this division, "emergency medical service organization" has the same meaning as in section 4766.01 of the Revised Code.

A board of township trustees, by adoption of an appropriate resolution, may choose to have the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services license any emergency medical service organization it operates. If the board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board of township trustees, by adoption of an appropriate resolution, may remove its emergency medical service organization from the jurisdiction of the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services.

Sec. 505.375. (A)(1)(a) The boards of township trustees of one or more townships and the legislative authorities of one or more municipal corporations, or the legislative authorities of two or more municipal corporations, or the boards of township trustees of two or more townships, may negotiate an agreement to form a fire and ambulance district for the delivery of both fire and ambulance services. The agreement shall be ratified by the adoption of a joint resolution by a majority of the members of

each board of township trustees involved and a majority of the members of the legislative authority of each municipal corporation involved. The joint resolution shall specify a date on which the fire and ambulance district shall come into being.

(b) If a joint fire district created under section 505.371 of the Revised Code or a joint ambulance district created under section 505.71 of the Revised Code is dissolved to facilitate the creation of a fire and ambulance district under division (A)(1)(a) of this section, the townships and municipal corporations forming the fire and ambulance district may transfer to the fire and ambulance district any of the funds on hand, moneys and taxes in the process of collection, credits, and real and personal property apportioned to them under division (D) of section 505.371 of the Revised Code or section 505.71 of the Revised Code, as applicable, for use by the fire and ambulance district in accordance with this section.

(2)(a) The board of trustees of a joint ambulance district created under section 505.71 of the Revised Code and the board of fire district trustees of a joint fire district created under section 505.371 of the Revised Code may negotiate to combine their two joint districts into a single fire and ambulance district for the delivery of both fire and ambulance services, if the geographic area covered by the combining joint districts is exactly the same. Both boards shall adopt a joint resolution ratifying the agreement and setting a date on which the fire and ambulance district shall come into being.

(b) On that date, the joint fire district and the joint ambulance district shall cease to exist, and the power of each to levy a tax upon taxable property shall terminate, except that any levy of a tax for the payment of indebtedness within the territory of the joint fire or joint ambulance district as it was composed

at the time the indebtedness was incurred shall continue to be collected by the successor fire and ambulance district if the indebtedness remains unpaid. All funds and other property of the joint districts shall become the property of the fire and ambulance district, unless otherwise provided in the negotiated agreement. The agreement shall provide for the settlement of all debts and obligations of the joint districts.

(B)(1) The governing body of a fire and ambulance district created under division (A)(1) or (2) of this section shall be a board of trustees of at least three but no more than nine members, appointed as provided in the agreement creating the district. Members of the board may be compensated at a rate not to exceed thirty dollars per meeting for not more than fifteen meetings per year, and may be reimbursed for all necessary expenses incurred, as provided in the agreement creating the district.

(2) The board shall employ a clerk and other employees as it considers best, including a fire chief or fire prevention officers, and shall fix their compensation. Neither this section nor any other section of the Revised Code requires, or shall be construed to require, that the fire chief of a fire and ambulance district be a resident of the district.

Before entering upon the duties of office, the clerk shall execute a bond, in the amount and with surety to be approved by the board, payable to the state, conditioned for the faithful performance of all of the clerk's official duties. The clerk shall deposit the bond with the presiding officer of the board, who shall file a copy of it, certified by the presiding officer, with the county auditor of the county containing the most territory in the district.

The board also shall provide for the appointment of a fiscal officer for the district and may enter into agreements with volunteer fire companies for the use and operation of

fire-fighting equipment. Volunteer firefighters acting under such an agreement are subject to the requirements for volunteer firefighters set forth in division (A) of section 505.38 of the Revised Code.

(3) Employees of the district shall not be removed from office except as provided by sections 733.35 to 733.39 of the Revised Code, except that, to initiate removal proceedings, the board shall designate a private citizen or, if the employee is employed as a firefighter, the board may designate the fire chief, to investigate, conduct the proceedings, and prepare the necessary charges in conformity with those sections, and except that the board shall perform the functions and duties specified for the municipal legislative authority under those sections. The board may pay reasonable compensation to any private citizen hired for services rendered in the matter.

(4) No person shall be appointed as a permanent full-time paid member of the district whose duties include fire fighting, or be appointed as a volunteer firefighter, unless that person has received a certificate issued under former section 3303.07 or section 4765.55 of the Revised Code evidencing satisfactory completion of a firefighter training program. The board may send its officers and firefighters to schools of instruction designed to promote the efficiency of firefighters and, if authorized in advance, may pay their necessary expenses from the funds used for the maintenance and operation of the district.

The board may choose, by adoption of an appropriate resolution, to have the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services license any emergency medical service organization it operates. If the board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the organization. All rules adopted under the applicable sections of

that chapter also apply to the organization. The board may remove, by resolution, its emergency medical service organization from the jurisdiction of the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services.

(C) The board of trustees of a fire and ambulance district created under division (A)(1) or (2) of this section may exercise the following powers:

(1) Purchase or otherwise provide any fire apparatus, mechanical resuscitators, or other fire or ambulance equipment, appliances, or materials; fire hydrants; and water supply for firefighting purposes that seems advisable to the board;

(2) Provide for the care and maintenance of equipment and, for that purpose, purchase, lease, lease with an option to purchase, or construct and maintain necessary buildings;

(3) Establish and maintain lines of fire-alarm communications within the limits of the district;

(4) Appropriate land for a fire station or medical emergency unit needed in order to respond in reasonable time to a fire or medical emergency, in accordance with Chapter 163. of the Revised Code;

(5) Purchase, appropriate, or accept a deed or gift of land to enlarge or improve a fire station or medical emergency unit;

(6) Purchase, lease, lease with an option to purchase, maintain, and use all materials, equipment, vehicles, buildings, and land necessary to perform its duties;

(7) Contract for a period not to exceed three years with one or more townships, municipal corporations, counties, joint fire districts, joint ambulance districts, governmental agencies, nonprofit corporations, or private ambulance owners located either within or outside the state, to furnish or receive ambulance

services or emergency medical services within the several territories of the contracting parties, if the contract is first authorized by all boards of trustees and legislative authorities concerned;

(8) Establish reasonable charges for the use of ambulance or emergency medical services under the same conditions under which a board of fire district trustees may establish those charges under section 505.371 of the Revised Code;

(9) Establish all necessary rules to guard against the occurrence of fires and to protect property and lives against damage and accidents;

(10) Adopt a standard code pertaining to fire, fire hazards, and fire prevention prepared and promulgated by the state or by a public or private organization that publishes a model or standard code;

(11) Provide for charges for false alarms at commercial establishments in the same manner as joint fire districts are authorized to do under section 505.391 of the Revised Code;

(12) Issue bonds and other evidences of indebtedness, subject to Chapter 133. of the Revised Code, but only after approval by a vote of the electors of the district as provided by section 133.18 of the Revised Code;

(13) To provide the services and equipment it considers necessary, levy a sufficient tax, subject to Chapter 5705. of the Revised Code, on all the taxable property in the district.

(D) Any municipal corporation or township may join an existing fire and ambulance district, whether created under division (A)(1) or (2) of this section, by its legislative authority's adoption of a resolution requesting the membership and upon approval of the board of trustees of the district. Any municipal corporation or township may withdraw from a district,

whether created under division (A)(1) or (2) of this section, by its legislative authority's adoption of a resolution ordering withdrawal. Upon its withdrawal, the municipal corporation or township ceases to be a part of the district, and the district's power to levy a tax on taxable property in the withdrawing township or municipal corporation terminates, except that the district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the district as it was composed at the time the indebtedness was incurred.

Upon the withdrawal of any township or municipal corporation from a district, the county auditor of the county containing the most territory in the district shall ascertain, apportion, and order a division of the funds on hand, including funds in the ambulance and emergency medical services fund, moneys and taxes in the process of collection, except for taxes levied for the payment of indebtedness, credits, and real and personal property on the basis of the valuation of the respective tax duplicates of the withdrawing municipal corporation or township and the remaining territory of the district.

(E) As used in this section:

(1) "Governmental agency" includes all departments, boards, offices, commissions, agencies, colleges, universities, institutions, and other instrumentalities of this or another state.

(2) "Emergency medical service organization" has the same meaning as in section 4766.01 of the Revised Code.

Sec. 505.44. As used in this section:

(A) "Emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

(B) "State agency" means all departments, boards, offices,

commissions, agencies, colleges, universities, institutions, and other instrumentalities of this or another state.

In order to obtain the services of ambulance service organizations, to obtain additional services from ambulance service organizations in times of emergency, to obtain the services of emergency medical service organizations, or, if the township is located in a county with a population of forty thousand or less, to obtain the services of nonemergency patient transport service organizations, a township may enter into a contract with one or more state agencies, townships, municipal corporations, counties, nonprofit corporations, joint emergency medical services districts, fire and ambulance districts, or private ambulance owners, regardless of whether such state agencies, townships, municipal corporations, counties, nonprofit corporations, joint emergency medical services districts, fire and ambulance districts, or private ambulance owners are located within or outside the state, upon such terms as are agreed to by them, to furnish or receive services from ambulance or emergency medical service organizations or, if the township is located in a county with a population of forty thousand or less, to furnish or receive services from nonemergency patient transport service organizations, or may enter into a contract for the interchange of services from ambulance or emergency medical service organizations or, if the township is located in a county with a population of forty thousand or less, the interchange of services from nonemergency patient transport service organizations, within the several territories of the contracting parties, if the contract is first authorized by the respective boards of township trustees, the other legislative bodies, or the officer or body authorized to contract on behalf of the state agency. Such contracts shall not be entered into with a state agency or nonprofit corporation that receives more than half of its operating funds from governmental entities with the intention of directly competing with the

operation of other ambulance, emergency medical, or nonemergency patient transport service organizations in the township unless the state agency or nonprofit corporation is awarded the contract after submitting the lowest and best bid to the board of township trustees.

The contract may provide for compensation upon such terms as the parties may agree.

Any township wishing to commence providing or wishing to enter into a contract for the first time to furnish or obtain services from nonemergency patient transport service organizations on or after March 1, 1993, including a township in which a private provider has been providing the service, shall demonstrate the need for public funding for the service to, and obtain approval from, the state board of emergency medical, fire, and transportation services or its immediate successor board prior to the establishment of a township-operated or township-funded service.

Sec. 505.59. The board of township trustees of a township that withdraws or proposes by resolution to withdraw the unincorporated territory of the township from a regional transit authority under section 306.55 of the Revised Code may levy a tax on taxable property in the unincorporated area of the township under section 5705.72 of the Revised Code to provide transportation services for the movement of persons within, from, or to the unincorporated area of the township.

Sec. 505.72. (A) The board of trustees of a joint ambulance district shall provide for the employment of such employees as it considers best, and shall fix their compensation. Such employees shall continue in office until removed as provided by sections 733.35 to 733.39 of the Revised Code. To initiate removal

proceedings, and for such purpose, the board shall designate a private citizen to investigate the conduct and prepare the necessary charges in conformity with sections 733.35 to 733.39 of the Revised Code. The board may pay reasonable compensation to such person for the person's services.

In case of the removal of an employee of the district, an appeal may be had from the decision of the board to the court of common pleas of the county in which such district, or part of it, is situated, to determine the sufficiency of the cause of removal. Such appeal from the findings of the board shall be taken within ten days.

(B) As used in this division, "emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

(1) In order to obtain the services of ambulance service organizations, to obtain additional services from ambulance service organizations in times of emergency, or to obtain the services of emergency medical service organizations, a district may enter into a contract, for a period not to exceed three years, with one or more townships, municipal corporations, joint fire districts, nonprofit corporations, any other governmental unit that provides ambulance services or emergency medical services, or with private ambulance owners, regardless of whether such townships, municipal corporations, joint fire districts, nonprofit corporations, governmental unit, or private ambulance owners are located within or without this state, upon such terms as are agreed to, to furnish or receive services from ambulance or emergency medical service organizations or the interchange of services from ambulance or emergency medical service organizations within the several territories of the contracting subdivisions, if such contract is first authorized by all boards of trustees and

legislative authorities concerned.

The contract may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract, or for compensation based upon a stipulated price for each run, call, or emergency, or the elapsed time of service required in such run, call, or emergency, or any combination thereof.

(2) Expenditures of a district for the services of ambulance service organizations or emergency medical service organizations, whether pursuant to contract or otherwise, are lawful expenditures, regardless of whether the district or the party with which it contracts charges additional fees to users of the services.

(3) A district's board of trustees, by adoption of an appropriate resolution, may choose to have the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services license any emergency medical service organization the district operates. If a board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the district emergency medical service organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board, by adoption of an appropriate resolution, may remove the district emergency medical service organization from the jurisdiction of the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services.

(C) Ambulance services or emergency medical services rendered for a joint ambulance district under this section and section 505.71 of the Revised Code shall be deemed services of the district. These sections do not authorize suits against a district or any township or municipal corporation providing or receiving, or contracting to provide or receive, such services under these sections for damages for injury or loss to persons or property or for wrongful death caused by persons providing such services.

Sec. 705.18. An annual appropriation ordinance shall be prepared by the legislative authority of a municipal corporation from estimates submitted by the mayor, the ~~chairman~~ chairperson of the commission, or the city manager, as the case may be, in the manner provided in section 705.17 of the Revised Code for the annual tax ordinance. The annual appropriation ordinance shall be submitted to the legislative authority at its first meeting ~~in January~~ after the beginning of the municipal corporation's fiscal year, and the total of any appropriation ordinance passed by such legislative authority shall not exceed the total balances carried over from the previous fiscal year plus the estimated revenue of the current fiscal year. Supplemental appropriations shall not be made during the current fiscal year except from an contingent fund regularly set aside by the legislative authority in the annual appropriation ordinance or unless by an ordinance passed as an emergency measure.

Sec. 749.04. When the legislative authority of a municipal corporation enters upon and takes possession of grounds purchased, appropriated, or otherwise obtained for hospital purposes, and, by resolution or ordinance, determines to erect thereon or rebuild a hospital, the erection and repair thereof or any addition thereto shall be vested in ~~a board of five commissioners, called~~ the board of hospital commissioners, as established under this section.

Such board shall consist of the mayor~~, who, by virtue of his office, shall be its president,~~ and ~~four~~ at least three trustees~~,~~ to be appointed by the mayor with the consent of the legislative authority. The members of such board shall be resident freehold electors of the municipal corporation, and they shall receive no compensation for their services.

Sec. 749.05. The term of office of the appointed members of

the board of hospital commissioners shall be four years, but the members first appointed shall hold their offices, respectively, as determined by lot at the first meeting of the board, for the periods of one, two, three, and four years, and thereafter one member shall be appointed each year for the full term of four years. ~~A~~ The mayor with the consent of the legislative authority shall fill any vacancy on the board of hospital commissioners not later than sixty days after the vacancy occurs. If the vacancy remains unfilled on that date, the legislative authority shall have thirty additional days to fill the vacancy. If the vacancy remains unfilled for ninety days after the vacancy occurs, the remaining members of the board, by majority vote, shall appoint an individual to fill the vacancy. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

A majority of the board shall constitute a quorum.

Sec. 749.18. If an agreement under section 749.16 of the Revised Code concerns or includes participation of a joint township hospital district, or of a county, in the maintenance and operation of a municipal hospital, the municipal corporation may establish a board of governors to exercise, subject to such further limitations as are imposed by the agreement, the powers vested in the board of hospital commissioners, provided that any such limitations shall not deny the board of governors the authority to retain counsel, to institute legal action in its own name, or to employ any other lawful means, for the collection of delinquent accounts. The board of governors may include in its membership representatives of a participating district who are electors of the district, or of a participating county who are electors of that county or an adjacent county, as are provided for in the agreement.

Except as otherwise provided in this section, the municipal members of the board of governors shall consist of the mayor~~, who by virtue of that office shall be its president,~~ and ~~four~~ at least three resident freeholders of the municipal corporation, at least one of whom shall be a doctor of medicine, to be appointed by the mayor with the consent of the legislative authority. However, if necessary to secure qualified individuals to serve on the board of governors, the municipal members of the board may be residents of the county in which the municipal corporation is located or of an adjacent county. ~~The~~

The term of office of ~~those~~ municipal members of the board of governors shall be as provided in section 749.05 of the Revised Code and vacancies on the board with respect to those members shall be filled as provided in that section. Unless otherwise provided in the agreement, any vacancy on the board with respect to a member appointed by a participating joint township hospital district or county shall be filled by the appointing body not later than ninety days after the vacancy occurs and if the vacancy remains unfilled on that date, the remaining members of the board, by majority vote, shall appoint an individual to fill the vacancy. Unless otherwise provided in the agreement, vacancies on the board with respect to any other members shall be filled by the remaining members of the board, by majority vote. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

The board of governors, subject to the terms of the agreement, shall establish regulations and elect officers~~, other than president,~~ as its members determine. The members shall be entitled to the compensation for their services provided by the agreement.

Sec. 901.53. (A) As used in this section, "agricultural structure" means any building or structure that is used in production, growing, harvesting, or housing for the purposes of agriculture.

(B) With regard to fire prevention and safety, agriculture and agricultural structures are subject only to the state fire code established in rules adopted under section 3737.82 of the Revised Code and not to any other requirements governing fire prevention and safety.

Sec. 901.54. ~~(A)~~ There is hereby created the office of farmland preservation within the department of agriculture. The office shall do all of the following:

~~(1)~~(A) Prepare guidelines and criteria for use in the development of comprehensive local land use plans that encourage the efficient use of public infrastructure and the preservation of farmland;

~~(2)~~(B) Establish a farmland preservation program to coordinate and assist local farmland preservation initiatives;

~~(3) Administer the pilot farmland preservation fund established in division (B) of this section;~~

~~(4)~~(C) Educate existing agencies and organizations on the importance of farmland preservation and on the significance of agriculture and agribusiness to this state's economy;

~~(5)~~(D) Serve as a liaison with other farmland preservation entities operating on a state, regional, or national level;

~~(6)~~(E) Prepare an inventory of farmland within this state to monitor the development of lands within this state having prime soils or unique microclimates.

~~(B) There is hereby created in the state treasury the pilot~~

~~farmland preservation fund consisting of moneys received by the office of farmland preservation for the purposes of the fund. The fund shall be administered by the office of farmland preservation. Moneys in the fund shall be used to leverage or match other farmland preservation funds provided from federal, local, or private sources.~~

Sec. 924.51. (A) There is hereby created the Ohio grape industries committee consisting of nine members. The members shall be the director of agriculture or the director's designee, who shall chair the committee, the superintendent of liquor control or the superintendent's designee, the chief of the division of markets of the department of agriculture, the viticulture extension specialist of the Ohio agricultural research and development center, who shall be a nonvoting member, and five members who shall be residents of this state and appointed by the director of agriculture in accordance with division (B) of this section. At no time shall the director appoint more than five members to the committee.

(B) Of the five members of the committee appointed by the director of agriculture, not less than two, but not more than three shall be persons who receive ~~the major portion of their~~ income from the production of grapes or grape products. ~~The term of one of these members shall begin January 1, 1982, and end December 31, 1982, and the second member's term shall begin January 1, 1982, and end December 31, 1983. Two~~ Not less than two, but not more than three members shall be persons who receive ~~the major portion of their~~ income from the production of wine from raw grape or fruit products in either raw fruit or fresh juice form. The ~~term of one of these members shall begin January 1, 1982, and end December 31, 1982, and the second member's term shall begin January 1, 1982, and end December 31, 1983. One member shall be a person the major portion of whose income is from the production of~~

~~grape products other than wine, such as juice, jams, or jellies; that member's term shall begin January 1, 1982, and end December 31, 1984. Thereafter, the~~ terms for each appointed member of the committee shall be for three years, commencing on the first day of January and ending on the thirty-first day of December. No appointed member shall serve more than two consecutive terms. The director may remove any appointed member for cause.

(C) Members shall be appointed to fill vacancies caused by death, resignation, or removal in the same manner prescribed for regular appointment to the committee. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration date of that member's term until that member's successor takes office, or until a period of ~~sixty~~ one hundred eighty days has elapsed, whichever occurs first.

(D) All members of the committee are entitled to their actual and necessary expenses incurred in the performance of their duties as members, payable from moneys received from the Ohio grape industries fund created under section 924.54 of the Revised Code.

(E) A majority of the committee constitutes a quorum.

Sec. 955.16. (A) Dogs that have been seized by the county dog warden and impounded shall be kept, housed, and fed for three days for the purpose of redemption, as provided by section 955.18 of the Revised Code, unless any of the following applies:

(1) Immediate humane destruction of the dog is necessary because of obvious disease or injury. If the diseased or injured dog is registered, as determined from the current year's registration list maintained by the warden and the county auditor of the county where the dog is registered, the necessity of destroying the dog shall be certified by a licensed veterinarian

or a registered veterinary technician. If the dog is not registered, the decision to destroy it shall be made by the warden.

(2) The dog is currently registered on the registration list maintained by the warden and the auditor of the county where the dog is registered and the attempts to notify the owner, keeper, or harborer under section 955.12 of the Revised Code have failed, in which case the dog shall be kept, housed, and fed for fourteen days for the purpose of redemption.

(3) The warden has contacted the owner, keeper, or harborer under section 955.12 of the Revised Code, and the owner, keeper, or harborer has requested that the dog remain in the pound or animal shelter until the owner, harborer, or keeper redeems the dog. The time for such redemption shall be not more than forty-eight hours following the end of the appropriate redemption period.

At any time after such periods of redemption, any dog not redeemed shall be donated to any nonprofit special agency that is engaged in the training of any type of assistance dogs and that requests that the dog be donated to it. Any dog not redeemed that is not requested by such an agency may be sold, except that no dog sold to a person other than a nonprofit teaching or research institution or organization of the type described in division (B) of this section shall be discharged from the pound or animal shelter until the animal has been registered and furnished with a valid registration tag.

(B) Any dog that is not redeemed within the applicable period as specified in this section or section 955.12 of the Revised Code from the time notice is mailed to its owner, keeper, or harborer or is posted at the pound or animal shelter, as required by section 955.12 of the Revised Code, and that is not required to be donated to a nonprofit special agency engaged in the training of

any type of assistance dogs may, upon payment to the dog warden or poundkeeper of the sum of three dollars, be sold to any nonprofit Ohio institution or organization that is certified by the ~~Ohio public~~ director of health ~~council~~ as being engaged in teaching or research concerning the prevention and treatment of diseases of human beings or animals. Any dog that is donated to a nonprofit special agency engaged in the training of any type of assistance dogs in accordance with division (A) of this section and any dog that is sold to any nonprofit teaching or research institution or organization shall be discharged from the pound or animal shelter without registration and may be kept by the agency or by the institution or organization without registration so long as the dog is being trained, or is being used for teaching and research purposes.

Any institution or organization certified by the ~~Ohio public health council~~ director that obtains dogs for teaching and research purposes pursuant to this section shall, at all reasonable times, make the dogs available for inspection by agents of the Ohio humane society, appointed pursuant to section 1717.04 of the Revised Code, and agents of county humane societies, appointed pursuant to section 1717.06 of the Revised Code, in order that the agents may prevent the perpetration of any act of cruelty, as defined in section 1717.01 of the Revised Code, to the dogs.

(C) Any dog that the dog warden or poundkeeper is unable to dispose of, in the manner provided by this section and section 955.18 of the Revised Code, may be humanely destroyed, except that no dog shall be destroyed until twenty-four hours after it has been offered to a nonprofit teaching or research institution or organization, as provided in this section, that has made a request for dogs to the dog warden or poundkeeper.

(D) An owner of a dog that is wearing a valid registration

tag who presents the dog to the dog warden or poundkeeper may specify in writing that the dog shall not be offered to a nonprofit teaching or research institution or organization, as provided in this section.

(E) A record of all dogs impounded, the disposition of the same, the owner's name and address, if known, and a statement of costs assessed against the dogs shall be kept by the poundkeeper, and the poundkeeper shall furnish a transcript thereof to the county treasurer quarterly.

A record of all dogs received and the source that supplied them shall be kept, for a period of three years from the date of acquiring the dogs, by all institutions or organizations engaged in teaching or research concerning the prevention and treatment of diseases of human beings or animals.

(F) No person shall destroy any dog by the use of a high altitude decompression chamber or by any method other than a method that immediately and painlessly renders the dog initially unconscious and subsequently dead.

Sec. 955.26. Whenever, in the judgment of the director of health, any city or general health district board of health, or persons performing the duties of a board of health, rabies is prevalent, the director of health, the board, or those persons shall declare a quarantine of all dogs in the health district or in a part of it. During the quarantine, the owner, keeper, or harborer of any dog shall keep it confined on the premises of the owner, keeper, or harborer, or in a suitable pound or kennel, at the expense of the owner, keeper, or harborer, except that a dog may be permitted to leave the premises of its owner, keeper, or harborer if it is under leash or under the control of a responsible person. The quarantine order shall be considered an emergency and need not be published.

When the quarantine has been declared, the director of health, the board, or those persons may require vaccination for rabies of all dogs within the health district or part of it. Proof of rabies vaccination within a satisfactory period shall be demonstrated to the county auditor before any registration is issued under section 955.01 of the Revised Code for any dog that is required to be vaccinated.

The ~~public health council~~ director shall determine appropriate methods of rabies vaccination and satisfactory periods for purposes of quarantines under this section.

When a quarantine of dogs has been declared in any health district or part of a health district, the county dog warden and all other persons having the authority of police officers shall assist the health authorities in enforcing the quarantine order. When rabies vaccination has been declared compulsory in any health district or part of a health district, the dog warden shall assist the health authorities in enforcing the vaccination order.

Notwithstanding the provisions of this section, a city or general health district board of health may make orders pursuant to sections 3709.20 and 3709.21 of the Revised Code requiring the vaccination of dogs.

Sec. 991.02. (A) There is hereby created the Ohio expositions commission, which shall consist of the following ~~thirteen~~ fourteen members: nine members appointed by the governor with the advice and consent of the senate; the director of development, the director of natural resources, and the director of agriculture, or their designated representatives, who shall be ex officio members with voting rights of ~~such~~ the commission; and the ~~chairman~~ chairperson of the standing committee in the house of representatives to which matters dealing with agriculture are generally referred and the ~~chairman~~ chairperson of the standing

committee in the senate to which matters dealing with agriculture are generally referred, who shall be nonvoting members. If the senate is not in session, recess appointments shall be made by the governor.

(B) Of the nine members of the commission appointed by the governor, not more than five shall be from one political party, at least three members shall receive the major portion of their income from farming, and at least one member shall, at the time of ~~his~~ appointment, be a member of the board of directors of an agricultural society ~~which~~ that was organized in compliance with section 1711.01 or 1711.02 of the Revised Code. Terms of office shall be for six years, commencing on the second day of December and ending on the first day of December. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of ~~such~~ that term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The term of each nonvoting, legislative member of the commission shall be for two years or until the end of the member's legislative term, whichever occurs first.

(C) The commission shall annually, during the month of December, select from among its members a ~~chairman~~ chairperson, a ~~vice-chairman~~ vice-chairperson, who in the absence of the ~~chairman~~ chairperson shall carry out ~~his~~ the chairperson's duties, and a secretary, who may be a member or employee of the commission, to record the minutes of its meetings and to carry out such other duties as may be assigned by the commission, its ~~chairman~~ chairperson, or ~~vice-chairman~~ its vice-chairperson.

(D) The director of agriculture, the director of natural resources, and the director of development, or their designated representatives, and the two legislators appointed to the commission, as members of the commission shall serve without compensation.

(E) Each of the members of the commission appointed by the governor shall be paid the rate established pursuant to division (J) of section 124.15 of the Revised Code. All members of the commission are entitled to their actual and necessary expenses incurred in the performance of their duties as such members, payable from the appropriations for the commission.

(F) The commission shall hold at least one regular meeting in each quarter of each calendar year, and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the ~~chairman~~ chairperson and shall be called by ~~him~~ the chairperson upon receipt of a written request therefor signed by two or more members of the commission. Written notice of the time and place of each meeting shall be sent to each member of the commission. Six of the voting members of the commission shall constitute a quorum.

(G) The commission shall employ and prescribe the powers and duties of a general manager who shall serve in the unclassified civil service at a salary fixed pursuant to section 124.14 of the Revised Code. The general manager may employ such assistant managers as ~~he~~ the general manager and the commission may approve. At no time shall such assistant managers exceed four in number, one of whom shall be appointed in the classified civil service. The general manager may, subject to the approval of the commission, employ a fiscal officer and such other officers, employees, and consultants with such powers and duties as are necessary to carry out ~~sections 991.01 to 991.07 of the Revised Code~~ this chapter. With the approval of the commission and in

order to implement this chapter, the general manager may employ and fix the compensation of seasonal employees; these employees shall be in the unclassified civil service, and the overtime pay requirements of section 124.18 of the Revised Code do not apply to them. The general manager shall be considered the appointing authority of the commission for purposes of Chapter 124. of the Revised Code.

(H) The governor may remove any appointed voting member of the commission at any time for inefficiency, neglect of duty, or malfeasance in office.

Sec. 1121.23. Whenever the approval of the superintendent of financial institutions is required under Chapters 1101. to 1127. of the Revised Code, or under an order or supervisory action issued or taken under those chapters, for a person to serve as an organizer, incorporator, director, executive officer, or controlling shareholder of a bank, or to otherwise have a substantial interest in or participate in the management of a bank, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the person's fingerprints in accordance with ~~division (A)(14) of~~ section 109.572 of the Revised Code. The superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the person who is the subject of the request.

Sec. 1155.03. Whenever the approval of the superintendent of financial institutions is required under Chapters 1151. to 1157. of the Revised Code, or under an order or supervisory action issued or taken under those chapters, for a person to serve as an

organizer, incorporator, director, executive officer, or controlling person of a savings and loan association, or to otherwise have a substantial interest in or participate in the management of a savings and loan association, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the person's fingerprints in accordance with ~~division (A)(14) of~~ section 109.572 of the Revised Code. The superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the person who is the subject of the request.

Sec. 1163.05. Whenever the approval of the superintendent of financial institutions is required under Chapters 1161. to 1165. of the Revised Code, or under an order or supervisory action issued or taken under those chapters, for a person to serve as an organizer, incorporator, director, executive officer, or controlling person of a savings bank, or to otherwise have a substantial interest in or participate in the management of a savings bank, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the person's fingerprints in accordance with ~~division (A)(14) of~~ section 109.572 of the Revised Code. The superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the person who is the subject of the request.

Sec. 1315.141. Whenever the approval of the superintendent of financial institutions is required under sections 1315.01 to 1315.18 of the Revised Code, or under an order or supervisory action issued or taken under those sections, for a person to serve as an organizer, incorporator, director, executive officer, or controlling person of a licensee, or to otherwise have a substantial interest in or participate in the management of a licensee, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the person's fingerprints in accordance with ~~division (A)(14) of~~ section 109.572 of the Revised Code. The superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the person who is the subject of the request.

Sec. 1317.05. (A) Any retail seller who, in any retail installment contract, has agreed to purchase insurance for the retail buyer and to extend credit for the price thereof, shall, prior to the due date of the first installment of the retail installment contract, deliver to the retail buyer personally, or mail or cause to be mailed to ~~him~~ the retail buyer at ~~his~~ the retail buyer's address as shown on the retail installment contract, the policy of insurance, or in lieu thereof a certificate of insurance, or the retail buyer is not liable on ~~his~~ the retail buyer's retail installment contract until the policy, or certificate of insurance, is received, or full refund is made of the insurance premium.

If the premium for insurance of like kind and amount, as fixed in the published manual of a recognized standard rating

bureau designated by the retail seller, is less than the amount charged the retail buyer as fixed in the written instrument in compliance with division (D) of section 1317.04 of the Revised Code, the retail buyer may deduct an amount equal to three times the difference from the amount owed the retail seller, or ~~his~~ the retail seller's successor in interest. Sections 1317.01 to 1317.11, inclusive, of the Revised Code do not impair the authority of the superintendent of insurance to grant, renew, or revoke licenses, nor do said sections authorize anyone other than a licensee of the division of insurance to directly or indirectly receive any part of the amount charged for insurance in connection with any retail installment sale.

(B) As used in this division, "debt cancellation or debt suspension product" means a contractual agreement in which a retail seller, or its assignee, agrees for a separate charge to cancel or waive all or a part of amounts due on a retail buyer's retail installment contract in the event of a total physical damage loss or unrecovered theft of the motor vehicle that is the subject of the contract. "Debt cancellation or debt suspension product" includes a guaranteed asset protection waiver, guaranteed auto protection waiver, or other similarly named agreement.

A debt cancellation or debt suspension product, and an addendum to a retail installment contract containing a debt cancellation or debt suspension product, shall be considered a part of the retail installment contract and shall remain a part of that contract upon the assignment, sale, or transfer of that contract. The charge for any debt cancellation or debt suspension product shall be listed as a specific good. The purchase price and the terms of the debt cancellation or debt suspension product shall be disclosed in writing to the buyer. The extension of credit, terms of the credit, or the terms of the related motor vehicle sale or lease shall not be conditioned on the purchase of

the debt cancellation or debt suspension product. Notwithstanding any other provision of law, a debt cancellation or debt suspension product shall not be considered insurance.

Sec. 1321.37. (A) Application for an original or renewal license to make short-term loans shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions, and shall contain the name and address of the applicant, the location where the business of making loans is to be conducted, and any further information as the superintendent requires. At the time of making an application for an original license, the applicant shall pay to the superintendent a nonrefundable investigation fee of two hundred dollars. No investigation fee or any portion thereof shall be refunded after an original license has been issued. The application for an original or renewal license shall be accompanied by an original or renewal license fee, for each business location of one thousand dollars, except that applications for original licenses issued on or after the first day of July for any year shall be accompanied by an original license fee of five hundred dollars, and except that an application for an original or renewal license, for a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, shall be accompanied by an original or renewal license fee, for each business location, that is one-half of the fee otherwise required. All fees paid to the superintendent pursuant to this division shall be deposited into the state treasury to the credit of the consumer finance fund.

(B) Upon the filing of an application for an original license and, with respect to an application filed for a renewal license, on a schedule determined by the superintendent by rule adopted pursuant to section 1321.43 of the Revised Code, and the payment of fees in accordance with division (A) of this section, the superintendent shall investigate the facts concerning the

applicant and the requirements provided by this division. The superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with ~~division (A)(12) of~~ section 109.572 of the Revised Code. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. The superintendent of financial institutions shall conduct a civil records check. The superintendent shall approve an application and issue an original or renewal license to the applicant if the superintendent finds all of the following:

(1) The financial responsibility, experience, reputation, and general fitness of the applicant are such as to warrant the belief that the business of making loans will be operated lawfully, honestly, and fairly under sections 1321.35 to 1321.48 of the Revised Code and within the purposes of those sections; that the applicant has fully complied with those sections and any rule or order adopted or issued pursuant to section 1321.43 of the Revised Code; and that the applicant is qualified to engage in the business of making loans under sections 1321.35 to 1321.48 of the Revised Code.

(2) The applicant is financially sound and has a net worth of not less than one hundred thousand dollars, or in the case of a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, a net worth of not less than fifty thousand dollars. The applicant's net worth shall be computed according to generally accepted accounting principles.

(3) The applicant has never had revoked a license to make loans under sections 1321.35 to 1321.48 of the Revised Code, under

former sections 1315.35 to 1315.44 of the Revised Code, or to do business under sections 1315.21 to 1315.30 of the Revised Code.

(4) Neither the applicant nor any senior officer, or partner of the applicant, has pleaded guilty to or been convicted of any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities or any violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to a criminal offense described in that division. However, if the applicant or any of those other persons has pleaded guilty to or been convicted of any such offense other than theft, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again.

(5) Neither the applicant nor any senior officer, or partner of the applicant, has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or if the applicant or any of those other persons has been subject to such a judgment, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the judgment show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again.

(C) If the superintendent finds that the applicant does not meet the requirements of division (B) of this section, or the superintendent finds that the applicant knowingly or repeatedly contracts with or employs persons to directly engage in lending activities who have been convicted of a felony crime listed in division (B)(5) of this section, the superintendent shall issue an order denying the application for an original or renewal license and giving the applicant an opportunity for a hearing on the denial in accordance with Chapter 119. of the Revised Code. The superintendent shall notify the applicant of the denial, the grounds for the denial, and the applicant's opportunity for a hearing. If the application is denied, the superintendent shall return the annual license fee but shall retain the investigation fee.

(D) No person licensed under sections 1321.35 to 1321.48 of the Revised Code shall conduct business in this state unless the licensee has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent and in the penal sum of at least one hundred thousand dollars, or in the case of a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, in the amount of fifty thousand dollars. The term of the bond shall coincide with the term of the license. The licensee shall file a copy of the bond with the superintendent. The bond shall be for the exclusive benefit of any borrower injured by a violation by a licensee or any employee of a licensee, of any provision of sections 1321.35 to 1321.48 of the Revised Code.

Sec. 1321.52. (A)(1) No person, on that person's own behalf or on behalf of any other person, shall do any of the following without having first obtained a certificate of registration from the division of financial institutions:

(a) Advertise, solicit, or hold out that the person is engaged in the business of making residential mortgage loans secured by a mortgage on a borrower's real estate which is other than a first lien on the real estate;

(b) Engage in the business of lending or collecting the person's own or another person's money, credit, or choses in action for non-first lien residential mortgage loans;

(c) Employ or compensate mortgage loan originators licensed or who should be licensed under sections 1321.51 to 1321.60 of the Revised Code to conduct the business of making residential mortgage loans;

(d) Make loans in this state of the type set forth in division (C) of this section that are unsecured or are secured by other than real property, which loans are for more than five thousand dollars at a rate of interest greater than permitted by section 1343.01 or other specific provisions of the Revised Code.

(2) Each person issued a certificate of registration or license is subject to all the rules prescribed under sections 1321.51 to 1321.60 of the Revised Code.

(B)(1) All loans made to persons who at the time are residents of this state are considered as made within this state and subject to the laws of this state, regardless of any statement in the contract or note to the contrary, except as follows:

(a) If the loan is primarily secured by a lien on real property in another state and is arranged by a mortgage loan originator licensed by that state, the borrower may by choice of law designate that the transaction be governed by the law where the real property is located if the other state has consumer protection laws covering the borrower that are applicable to the transaction.

(b) If the loan is for the purpose of purchasing goods

acquired by the borrower when the borrower is outside of this state, the loan may be governed by the laws of the other state.

(2) Nothing in division (B)(1) of this section prevents a choice of law or requires registration or licensure of persons outside of this state in a transaction involving the solicitation of residents of this state to obtain non-real estate secured loans that require the borrowers to physically visit a lender's out-of-state office to apply for and obtain the disbursement of loan funds.

(C) A registrant may make unsecured loans, loans secured by a mortgage on a borrower's real estate which is a first lien or other than a first lien on the real estate, loans secured by other than real estate, and loans secured by any combination of mortgages and security interests, on terms and conditions provided by sections 1321.51 to 1321.60 of the Revised Code.

(D)(1) If a lender that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A)(1) of this section, the lender has no right to collect, receive, or retain any interest or charges on that loan.

(2) If a registrant applies to the division for a renewal of the registrant's certificate after the date required by division (A)(7) of section 1321.53 of the Revised Code, but prior to the first day of February of that year, and the division approves the application, division (D)(1) of this section does not apply with respect to any loan made by the registrant while the registrant's certificate was expired.

(3) If a person's registration under sections 1321.51 to 1321.60 of the Revised Code terminates due to nonrenewal or otherwise but the person continues to engage in the business of collecting or servicing non-first lien residential mortgage loans in violation of division (A)(1) of this section, the

superintendent of financial institutions may take administrative action, including action on any subsequent application for a certificate of registration. In addition, no late fee, bad check charge except as incurred, charge related to default or cost to realize on its security interest, or prepayment penalty on non-first lien residential mortgage loans shall be collected or retained by a person who is in violation of division (A)(1)(b) of this section for the period of time in which the person was in violation. Nothing in division (D)(3) of this section prevents or otherwise precludes any other actions or penalties provided by law or modifies a defense of holder in due course that a subsequent purchaser servicing the residential mortgage loan may raise.

(E)(1) No individual shall engage in the business of a mortgage loan originator without first obtaining and maintaining annually a license pursuant to section 1321.532 of the Revised Code from the division of financial institutions. A mortgage loan originator shall be employed or associated with a registrant or entity exempt from registration under sections 1321.51 to 1321.60 of the Revised Code, but shall not be employed by or associated with more than one registrant or exempt entity at any one time.

(2) An individual acting under the individual's authority as a registered mortgage loan originator shall not be required to be licensed under division (E)(1) of this section.

(3) An individual who holds a valid temporary mortgage loan originator license issued pursuant to section 1321.537 of the Revised Code may engage in the business of a mortgage loan originator in accordance with sections 1321.51 to 1321.60 of the Revised Code during the term of the temporary license.

(F)(1) Each licensee shall register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.

(2) No person shall use a licensee's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

(G)(1) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A)(1)(d) of this section and subsequently sells or assigns that loan, the person is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate that would be applicable in the absence of sections 1321.51 to 1321.60 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D)(1) of this section.

(2) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a residential mortgage loan in violation of division (A)(1)(b) or (c) of this section and subsequently sells or assigns that loan, the lender is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate set forth in division (B)(4) of section 1343.01 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D)(1) of this section.

Sec. 1321.53. (A)(1) An application for a certificate of registration under sections 1321.51 to 1321.60 of the Revised Code shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the division of financial institutions, and shall contain any information that the division may require. Applicants that are foreign corporations shall obtain and maintain a license pursuant to Chapter 1703. of the Revised Code before a certificate is issued or renewed.

(2) Upon the filing of the application and the payment by the applicant of a nonrefundable two-hundred-dollar investigation fee, a nonrefundable three-hundred-dollar annual registration fee, and any additional fee required by the nationwide mortgage licensing system and registry, the division shall investigate the relevant facts. If the application involves investigation outside this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of such investigation, when it appears that these expenses will exceed two hundred dollars. An itemized statement of any of these expenses which the applicant is required to pay shall be furnished to the applicant by the division. No certificate shall be issued unless all the required fees have been submitted to the division.

(3) All applicants making loans secured by an interest in real estate shall designate an employee or owner of the applicant as the applicant's primary point of contact. While acting as the primary point of contact, the employee or owner shall not be employed by any other registrant or mortgage broker.

(4) The investigation undertaken upon application shall include both a civil and criminal records check of the applicant including any individual whose identity is required to be disclosed in the application. Where the applicant is a business entity the superintendent shall have the authority to require a civil and criminal background check of those persons that in the determination of the superintendent have the authority to direct and control the operations of the applicant.

(5)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with ~~division (A)(12) of~~ section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check as set forth in division (C) of section 1321.531 of the Revised Code.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(6) If an application for a certificate of registration does not contain all of the information required under division (A) of this section, and if such information is not submitted to the division or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

(7) If the division finds that the financial responsibility, experience, character, and general fitness of the applicant command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1321.51 to 1321.60 of the Revised Code and the rules adopted thereunder, and that the applicant has the requisite bond or applicable net worth and assets required by division (B) of this section, the division shall thereupon issue a certificate of registration to the applicant. The superintendent shall not use a credit score as the sole basis for a registration denial.

(a)(i) Certificates of registration issued on or after July 1, 2010, shall annually expire on the thirty-first day of December, unless renewed by the filing of a renewal application and payment of a three-hundred-dollar nonrefundable annual registration fee, any assessment as determined by the superintendent pursuant to division (A)(7)(a)(ii) of this section, and any additional fee required by the nationwide mortgage licensing system and registry, on or before the last day of December of each year. No other fee or assessment shall be required of a registrant by the state or any political subdivision of this state.

(ii) If the renewal fees billed by the superintendent pursuant to division (A)(7)(a)(i) of this section are less than the estimated expenditures of the consumer finance section of the division of financial institutions, as determined by the superintendent, for the following fiscal year, the superintendent may assess each registrant at a rate sufficient to equal in the aggregate the difference between the renewal fees billed and the estimated expenditures. Each registrant shall pay the assessed amount to the superintendent prior to the last day of June. In no case shall the assessment exceed ten cents per each one hundred dollars of interest (excluding charge-off recoveries), points, loan origination charges, and credit line charges collected by that registrant during the previous calendar year. If such an assessment is imposed, it shall not be less than two hundred fifty dollars per registrant and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A)(7)(a)(i) of this section by each registrant.

(b) Registrants shall timely file renewal applications on forms prescribed by the division and provide any further information that the division may require. If a renewal application does not contain all of the information required under

this section, and if that information is not submitted to the division or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

(c) Renewal shall not be granted if the applicant's certificate of registration is subject to an order of suspension, revocation, or an unpaid and past due fine imposed by the superintendent.

(d) If the division finds the applicant does not meet the conditions set forth in this section, it shall issue a notice of intent to deny the application, and forthwith notify the applicant of the denial, the grounds for the denial, and the applicant's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code.

(8) If there is a change of five per cent or more in the ownership of a registrant, the division may make any investigation necessary to determine whether any fact or condition exists that, if it had existed at the time of the original application for a certificate of registration, the fact or condition would have warranted the division to deny the application under division (A)(7) of this section. If such a fact or condition is found, the division may, in accordance with Chapter 119. of the Revised Code, revoke the registrant's certificate.

(B) Each registrant that engages in lending under sections 1321.51 to 1321.60 of the Revised Code shall, if not otherwise required to be bonded pursuant to section 1321.533 of the Revised Code, maintain both of the following:

(1) A net worth of at least fifty thousand dollars;

(2) For each certificate of registration, assets of at least fifty thousand dollars either in use or readily available for use in the conduct of the business.

(C) Not more than one place of business shall be maintained under the same certificate, but the division may issue additional certificates to the same registrant upon compliance with sections 1321.51 to 1321.60 of the Revised Code, governing the issuance of a single certificate. No change in the place of business of a registrant to a location outside the original municipal corporation shall be permitted under the same certificate without the approval of a new application, the payment of the registration fee and, if required by the superintendent, the payment of an investigation fee of two hundred dollars. When a registrant wishes to change its place of business within the same municipal corporation, it shall give written notice of the change in advance to the division, which shall provide a certificate for the new address without cost. If a registrant changes its name, prior to making loans under the new name it shall give written notice of the change to the division, which shall provide a certificate in the new name without cost. Sections 1321.51 to 1321.60 of the Revised Code do not limit the loans of any registrant to residents of the community in which the registrant's place of business is situated. Each certificate shall be kept conspicuously posted in the place of business of the registrant and is not transferable or assignable.

(D) Sections 1321.51 to 1321.60 of the Revised Code do not apply to any of the following:

(1) Entities chartered and lawfully doing business under the authority of any law of this state, another state, or the United States as a bank, savings bank, trust company, savings and loan association, or credit union, or a subsidiary of any such entity, which subsidiary is regulated by a federal banking agency and is

owned and controlled by such a depository institution;

(2) Life, property, or casualty insurance companies licensed to do business in this state;

(3) Any person that is a lender making a loan pursuant to sections 1321.01 to 1321.19 of the Revised Code or a business loan as described in division (B)(6) of section 1343.01 of the Revised Code;

(4) Any political subdivision, or any governmental or other public entity, corporation, instrumentality, or agency, in or of the United States or any state of the United States, or any entity described in division (B)(3) of section 1343.01 of the Revised Code;

(5) A college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code;

(6) A credit union service organization, provided the organization utilizes services provided by registered mortgage loan originators or the organization complies with section 1321.522 of the Revised Code and holds a valid letter of exemption issued by the superintendent.

(E) No person engaged in the business of selling tangible goods or services related to tangible goods may receive or retain a certificate under sections 1321.51 to 1321.60 of the Revised Code for such place of business.

Sec. 1321.531. (A) An application for a mortgage loan originator license shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of one hundred fifty dollars and all other required fees, including any fees required by the nationwide

mortgage licensing system and registry.

(B) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage loan originator licensees or other persons subject to or involved in their licensure.

(C) In connection with applying for a mortgage loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information concerning the applicant's identity:

(1) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(2) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain the following:

(a) An independent credit report from a consumer reporting agency;

(b) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(D) In order to effectuate the purposes of divisions (C)(1) and (C)(2)(b) of this section, the superintendent may use the conference of state bank supervisors, or a wholly owned subsidiary, as a channeling agent for requesting information from and distributing information to the United States department of justice or any other governmental agency. The superintendent may

also use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source related to matters subject to divisions (C)(2)(a) and (b) of this section.

(E) Upon the filing of the application, payment of the application fee, and payment of any additional fee, including any fee required by the nationwide mortgage licensing system and registry, the superintendent shall investigate the applicant as set forth in division (E) of this section.

(1)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number in accordance with ~~division (A)(12) of~~ section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check as set forth in division (C) of this section.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(2) The superintendent of financial institutions shall conduct a civil records check.

(3) If, in order to issue a license to an applicant, additional investigation by the superintendent outside this state

is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed one hundred dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(F) If an application for a mortgage loan originator license does not contain all of the information required under this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

Sec. 1321.537. (A) As used in this section:

(1) "Out-of-state mortgage loan originator" means an individual to whom both of the following apply:

(a) The individual holds a valid mortgage loan originator license, or comparable authority, issued pursuant to the law of any other state of the United States.

(b) The individual is registered, fingerprinted, and maintains a unique identifier through the nationwide mortgage licensing system and registry.

(2) "Sponsor" means a registrant or entity described in division (D) of section 1321.53 of the Revised Code that employs or is associated with an applicant for a temporary mortgage loan originator license and, during the term of the applicant's temporary license, covers the applicant under its corporate surety bond or requires the applicant to obtain and maintain a corporate

surety bond.

(B) The superintendent of financial institutions may, in accordance with this section, issue to an out-of-state mortgage loan originator a temporary mortgage loan originator license that enables the licensee to engage in the business of a mortgage loan originator while the individual completes the requirements necessary to meet the conditions set forth in section 1321.532 of the Revised Code for a mortgage loan originator license. A temporary mortgage loan originator license shall be valid for a term of not more than one hundred twenty days from the date of issuance. A temporary mortgage loan originator license may not be renewed.

(C) An application for a temporary mortgage loan originator license shall be in writing, under oath, and in a form that meets the requirements of the nationwide mortgage licensing system and registry. The application shall be accompanied by a nonrefundable application fee, the amount of which shall be determined by the superintendent in rule, and a certification that, as of the date of application, the applicant meets both of the following conditions:

(1) The applicant has at least two years of experience in the field of residential mortgage lending in the five years immediately preceding the date of application for the temporary mortgage loan originator license.

(2) The applicant has not previously applied for a temporary mortgage loan originator license in this state.

(3) The applicant has not had a mortgage loan originator license, or comparable authority, revoked in any governmental jurisdiction. For purposes of division (C)(3) of this section, a subsequent formal vacation of such a revocation shall not be considered a revocation.

(4) The applicant has not been convicted of, or pleaded guilty or nolo contendere to, any of the following in a domestic, foreign, or military court:

(a) During the seven-year period immediately preceding the date of application, a misdemeanor involving theft or any felony;

(b) At any time prior to the date of application, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

For purposes of division (C)(4) of this section, any conviction for which the applicant has received a pardon shall not be considered a conviction.

(D) The superintendent shall issue a temporary mortgage loan originator license to the applicant if the superintendent finds that all of the following conditions are met:

(1) The application is accompanied by the application fee and the certification described in division (C) of this section.

(2) The applicant is registered, fingerprinted, and has a valid unique identifier through the nationwide mortgage licensing system and registry as of the date of application.

(3) The applicant has authorized the nationwide mortgage licensing system and registry to obtain a credit report for submission to the superintendent.

(4) The applicant has a sponsor that certifies employment of, or association with, the applicant and has signed the application.

(E) The sponsor of a temporary licensee shall have an affirmative duty to supervise the conduct of each temporary mortgage loan originator in the same manner as is required of its other licensees. If the temporary licensee's employment or association with the sponsor is terminated, the sponsor shall notify the division of financial institutions of the termination

through the nationwide mortgage licensing system and registry. Upon the division's receipt of the notice, the sponsor shall no longer be held responsible for the conduct of the temporary licensee.

(F) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt rules necessary for the implementation and operation of this section.

Sec. 1321.538. If the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as amended, is modified after the effective date of this section, or any regulation, statement, or position is adopted under that act, to permit states to issue a temporary mortgage loan originator license to a registered mortgage loan originator, the superintendent shall, in accordance with section 111.15 of the Revised Code, adopt rules the superintendent considers necessary and appropriate to issue a temporary license to a registered mortgage loan originator.

Sec. 1322.02. (A)(1) No person, on the person's own behalf or on behalf of any other person, shall act as a mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for every office to be maintained by the person for the transaction of business as a mortgage broker in this state. A registrant shall maintain an office location in this state for the transaction of business as a mortgage broker in this state.

(2) No person shall act or hold that person's self out as a mortgage broker under the authority or name of a registrant or person exempt from sections 1322.01 to 1322.12 of the Revised Code without first having obtained a certificate of registration from the superintendent for every office to be maintained by the person

for the transaction of business as a mortgage broker in this state.

(B)(1) No individual shall act as a loan originator without first having obtained a license from the superintendent. A loan originator shall be employed by or associated with a mortgage broker or any person or entity listed in division (G)(2) of section 1322.01 of the Revised Code, but shall not be employed by or associated with more than one mortgage broker or person or entity at any one time.

(2) An individual acting under the individual's authority as a registered loan originator shall not be required to be licensed under division (B)(1) of this section.

(3) An individual who holds a valid temporary loan originator license issued pursuant to section 1322.042 of the Revised Code may engage in the business of a loan originator in accordance with sections 1322.01 to 1322.12 of the Revised Code during the term of the temporary license.

(C)(1) No person acting as a mortgage broker or loan originator shall fail to register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.

(2) No person shall use a mortgage broker's or loan originator's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

Sec. 1322.03. (A) An application for a certificate of registration as a mortgage broker shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of five hundred dollars for each

location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code and any additional fee required by the nationwide mortgage licensing system and registry. The application shall provide all of the following:

(1) The location or locations where the business is to be transacted and whether any location is a residence. If any location where the business is to be transacted is a residence, the superintendent may require that the application be accompanied by a copy of a zoning permit authorizing the use of the residence for commercial purposes, or by a written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision.

(2)(a) In the case of a sole proprietor, the name and address of the sole proprietor;

(b) In the case of a partnership, the name and address of each partner;

(c) In the case of a corporation, the name and address of each shareholder owning five per cent or more of the corporation;

(d) In the case of any other entity, the name and address of any person that owns five per cent or more of the entity that will transact business as a mortgage broker.

(3) Each applicant shall designate an employee or owner of the applicant as the applicant's operations manager. While acting as the operations manager, the employee or owner shall be licensed as a loan originator under sections 1322.01 to 1322.12 of the Revised Code and shall not be employed by any other mortgage broker.

(4) Evidence that the person designated on the application

pursuant to division (A)(3) of this section possesses at least three years of experience in the residential mortgage and lending field, which experience may include employment with or as a mortgage broker or with a depository institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of residential mortgage loans that the superintendent determines meets the requirements of division (A)(4) of this section;

(5) Evidence that the person designated on the application pursuant to division (A)(3) of this section has successfully completed the pre-licensing instruction requirements set forth in section 1322.031 of the Revised Code;

(6) Evidence of compliance with the surety bond requirements of section 1322.05 of the Revised Code and with sections 1322.01 to 1322.12 of the Revised Code;

(7) In the case of a foreign business entity, evidence that it maintains a license or registration pursuant to Chapter 1703., 1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to transact business in this state;

(8) Evidence that the applicant's operations manager has successfully completed the written test required under division (A) of section 1322.051 of the Revised Code;

(9) Any further information that the superintendent requires.

(B) Upon the filing of the application and payment of the nonrefundable application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent of financial institutions shall investigate the applicant, and any individual whose identity is required to be disclosed in the application, as set forth in division (B) of this section.

(1)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with ~~division (A)(12) of~~ section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(2) The superintendent shall conduct a civil records check.

(3) If, in order to issue a certificate of registration to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed five hundred dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.04 of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised

Code.

(D) If an application for a mortgage broker certificate of registration does not contain all of the information required under division (A) of this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

(E) A mortgage broker certificate of registration and the authority granted under that certificate is not transferable or assignable and cannot be franchised by contract or any other means.

(F) The registration requirements of this chapter apply to any person acting as a mortgage broker, and no person is exempt from the requirements of this chapter on the basis of prior work or employment as a mortgage broker.

(G) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage broker certificates of registration or the persons associated with a mortgage broker.

Sec. 1322.031. (A) An application for a license as a loan originator shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of one hundred fifty dollars and any additional fee required by the nationwide mortgage licensing system and registry.

(B)(1) The application shall provide evidence, acceptable to the superintendent, that the applicant has successfully completed at least twenty-four hours of pre-licensing instruction consisting of all of the following:

(a) Twenty hours of instruction in a course or program of study reviewed and approved by the nationwide mortgage licensing system and registry;

(b) Four hours of instruction in a course or program of study reviewed and approved by the superintendent concerning state lending laws and the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees.

(2) Notwithstanding division (B)(1) of this section, until the nationwide mortgage licensing system and registry implements a review and approval program, the application shall provide evidence, as determined by the superintendent, that the applicant has successfully completed at least twenty-four hours of instruction in a course or program of study approved by the superintendent that consists of at least all of the following:

(a) Four hours of instruction concerning state and federal mortgage lending laws, which shall include no less than two hours on this chapter;

(b) Four hours of instruction concerning the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees;

(c) Four hours of instruction concerning the loan application process;

(d) Two hours of instruction concerning the underwriting process;

(e) Two hours of instruction concerning the secondary market

for mortgage loans;

(f) Four hours of instruction concerning the loan closing process;

(g) Two hours of instruction covering basic mortgage financing concepts and terms;

(h) Two hours of instruction concerning the ethical responsibilities of a registrant and a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.

(3) For purposes of division (B)(1)(a) of this section, the review and approval of a course or program of study includes the review and approval of the provider of the course or program of study.

(4) If an applicant held a valid loan originator license issued by this state at any time during the immediately preceding five-year period, the applicant shall not be required to complete any additional pre-licensing instruction. For this purpose, any time during which the individual is a registered loan originator shall not be taken into account.

(5) A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state.

(C) In addition to the information required under division (B) of this section, the application shall provide both of the following:

(1) Evidence that the applicant passed a written test that meets the requirements described in division (B) of section

1322.051 of the Revised Code;

(2) Any further information that the superintendent requires.

(D) Upon the filing of the application and payment of the application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent of financial institutions shall investigate the applicant as set forth in division (D) of this section.

(1)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of the records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with ~~division (A)(12) of~~ section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(2) The superintendent shall conduct a civil records check.

(3) If, in order to issue a license to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed one

hundred fifty dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(E)(1) In connection with applying for a loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information concerning the applicant's identity:

(a) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(b) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain the following:

(i) An independent credit report from a consumer reporting agency;

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(2) In order to effectuate the purposes of divisions (E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent may use the conference of state bank supervisors, or a wholly owned subsidiary, as a channeling agent for requesting information from and distributing information to the United States department of justice or any other governmental agency. The superintendent may also use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source related to matters subject to those divisions of this section.

(F) The superintendent shall pay all funds advanced and

application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.041 of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

(G) If an application for a loan originator license does not contain all of the information required under this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

(H)(1) The business of a loan originator shall principally be transacted at an office of the mortgage broker with whom the licensee is employed or associated, which office is registered in accordance with division (A) of section 1322.02 of the Revised Code. Each original loan originator license shall be deposited with and maintained by the mortgage broker at the mortgage broker's main office. A copy of the license shall be maintained and displayed at the office where the loan originator principally transacts business.

(2) If a loan originator's employment or association is terminated for any reason, the mortgage broker shall return the original loan originator license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another mortgage broker by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. Any licensee whose license is held in escrow shall cease activity as a loan originator. A licensee

whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(3) A mortgage broker may employ or be associated with a loan originator on a temporary basis pending the transfer of the loan originator's license to the mortgage broker, if the mortgage broker receives written confirmation from the superintendent that the loan originator is licensed under sections 1322.01 to 1322.12 of the Revised Code.

(4) Notwithstanding divisions (H)(1) to (3) of this section, if a licensee is employed by or associated with a person or entity listed in division (G)(2) of section 1322.01 of the Revised Code, all of the following apply:

(a) The licensee shall maintain and display the original loan originator license at the office where the licensee principally transacts business;

(b) If the loan originator's employment or association is terminated, the loan originator shall return the original loan originator license to the superintendent within five business days after termination. The licensee may request the transfer of the license to a mortgage broker or another person or entity listed in division (G)(2) of section 1322.01 of the Revised Code by submitting a transfer application, along with a fifteen-dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(c) The licensee may seek to be employed or associated with a

mortgage broker or person or entity listed in division (G)(2) of section 1322.01 of the Revised Code if the mortgage broker or person or entity receives written confirmation from the superintendent that the loan originator is licensed under sections 1322.01 to 1322.12 of the Revised Code.

(I) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to loan originator licenses or the persons associated with a licensee.

(J) A loan originator license, or the authority granted under that license, is not assignable and cannot be franchised by contract or any other means.

Sec. 1322.042. (A) As used in this section:

(1) "Out-of-state loan originator" means an individual to whom both of the following apply:

(a) The individual holds a valid loan originator license, or comparable authority, issued pursuant to the law of any other state of the United States.

(b) The individual is registered, fingerprinted, and maintains a unique identifier through the nationwide mortgage licensing system and registry.

(2) "Sponsor" means a registrant or entity described in division (G)(2) of section 1322.01 of the Revised Code that employs or is associated with an applicant for a temporary loan originator license and, during the term of the applicant's temporary license, covers the applicant under its corporate surety bond or requires the applicant to obtain and maintain a corporate surety bond.

(B) The superintendent of financial institutions may, in accordance with this section, issue to an out-of-state loan originator a temporary loan originator license that enables the licensee to engage in the business of a loan originator while the individual completes the requirements necessary to meet the conditions set forth in section 1322.041 of the Revised Code for a loan originator license. A temporary loan originator license shall be valid for a term of not more than one hundred twenty days from the date of issuance. A temporary loan originator license may not be renewed.

(C) An application for a temporary loan originator license shall be in writing, under oath, and in a form that meets the requirements of the nationwide mortgage licensing system and registry. The application shall be accompanied by a nonrefundable application fee, the amount of which shall be determined by the superintendent in rule, and a certification that, as of the date of application, the applicant meets the following conditions:

(1) The applicant has at least two years of experience in the field of residential mortgage lending in the five years immediately preceding the date of application for the temporary loan originator license.

(2) The applicant has not previously applied for a temporary loan originator license in this state.

(3) The applicant has not had a loan originator license, or comparable authority, revoked in any governmental jurisdiction. For purposes of division (C)(3) of this section, a subsequent formal vacation of such a revocation shall not be considered a revocation.

(4) The applicant has not been convicted of, or pleaded guilty or nolo contendere to, any of the following in a domestic, foreign, or military court:

(a) During the seven-year period immediately preceding the date of application, a misdemeanor involving theft or any felony;

(b) At any time prior to the date of application, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

For purposes of division (C)(4) of this section, any conviction for which the applicant has received a pardon shall not be considered a conviction.

(D) The superintendent shall issue a temporary loan originator license to the applicant if the superintendent finds that all of the following conditions are met:

(1) The application is accompanied by the application fee and the certification described in division (C) of this section.

(2) The applicant is registered, fingerprinted, and has a valid unique identifier through the nationwide mortgage licensing system and registry as of the date of application.

(3) The applicant has authorized the nationwide mortgage licensing system and registry to obtain a credit report for submission to the superintendent.

(4) The applicant has a sponsor that certifies employment of, or association with, the applicant and has signed the application.

(E) The sponsor of a temporary licensee shall have an affirmative duty to supervise the conduct of each temporary loan originator in the same manner as is required of its other licensees. If the temporary licensee's employment or association with the sponsor is terminated, the sponsor shall notify the division of financial institutions of the termination through the nationwide mortgage licensing system and registry. Upon the division's receipt of the notice, the sponsor shall no longer be held responsible for the conduct of the temporary licensee.

(F) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt rules necessary for the implementation and operation of this section.

Sec. 1322.043. If the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as amended, is modified after the effective date of this section, or any regulation, statement, or position is adopted under that act, to permit states to issue a temporary loan originator license to a registered loan originator, the superintendent shall, in accordance with section 111.15 of the Revised Code, adopt rules the superintendent considers necessary and appropriate to issue a temporary license to a registered loan originator.

Sec. 1345.05. (A) The attorney general shall:

(1) Adopt, amend, and repeal procedural rules;

(2) Adopt as a rule a description of the organization of the attorney general's office, stating the general courses and methods of operation of the section of the office of the attorney general, which is to administer Chapter 1345. of the Revised Code and methods whereby the public may obtain information or make submissions or requests, including a description of all forms and instructions used by that office;

(3) Make available for public inspection all rules and all other written statements of policy or interpretations adopted or used by the attorney general in the discharge of the attorney general's functions, together with all judgments, including supporting opinions, by courts of this state that determine the rights of the parties and concerning which appellate remedies have been exhausted, or lost by the expiration of the time for appeal, determining that specific acts or practices violate section 1345.02, 1345.03, or 1345.031 of the Revised Code;

(4) Inform consumers and suppliers on a continuing basis of acts or practices that violate Chapter 1345. of the Revised Code by, among other things, publishing an informational document describing acts and practices in connection with residential mortgages that are unfair, deceptive, or unconscionable, and by making that information available on the attorney general's official web site;

(5) Cooperate with state and local officials, officials of other states, and officials of the federal government in the administration of comparable statutes;

(6) Report annually on or before the ~~first~~ thirty-first day of January to the governor and the general assembly on the operations of the attorney general in respect to Chapter 1345. of the Revised Code, and on the acts or practices occurring in this state that violate such chapter. The report shall include a statement of investigatory and enforcement procedures and policies, of the number of investigations and enforcement proceedings instituted and of their disposition, and of other activities of the state and of other persons to promote the purposes of Chapter 1345. of the Revised Code.

(7) In carrying out official duties, the attorney general shall not disclose publicly the identity of suppliers investigated or the facts developed in investigations unless these matters have become a matter of public record in enforcement proceedings, in public hearings conducted pursuant to division (B)(1) of this section, or the suppliers investigated have consented in writing to public disclosure.

(B) The attorney general may:

(1) Conduct research, make inquiries, hold public hearings, and publish studies relating to consumer transactions;

(2) Adopt, amend, and repeal substantive rules defining with

reasonable specificity acts or practices that violate sections 1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, amending, or repealing substantive rules defining acts or practices that violate section 1345.02 of the Revised Code, due consideration and great weight shall be given to federal trade commission orders, trade regulation rules and guides, and the federal courts' interpretations of subsection 45(a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

In adopting, amending, or repealing such rules concerning a consumer transaction in connection with a residential mortgage, the attorney general shall consult with the superintendent of financial institutions and shall give due consideration to state and federal statutes, regulations, administrative agency interpretations, and case law.

(C) In the conduct of public hearings authorized by this section, the attorney general may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant material. Upon failure of a person without lawful excuse to obey a subpoena or to produce relevant matter, the attorney general may apply to a court of common pleas for an order compelling compliance.

(D) The attorney general may request that an individual who refuses to testify or to produce relevant material on the ground that the testimony or matter may incriminate the individual be ordered by the court to provide the testimony or matter. With the exception of a prosecution for perjury and an action for damages under section 1345.07 or 1345.09 of the Revised Code, an individual who complies with a court order to provide testimony or matter, after asserting a privilege against self incrimination to which the individual is entitled by law, shall not be subjected to a criminal proceeding on the basis of the testimony or matter

discovered through that testimony or matter.

(E) Any person may petition the attorney general requesting the adoption, amendment, or repeal of a rule. The attorney general shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. Within sixty days of submission of a petition, the attorney general shall either deny the petition in writing, stating the reasons for the denial, or initiate rule-making proceedings. There is no right to appeal from such denial of a petition.

(F) All rules shall be adopted subject to Chapter 119. of the Revised Code.

(G) The informational document published in accordance with division (A)(4) of this section shall be made available for distribution to consumers who are applying for a mortgage loan. An acknowledgement of receipt shall be retained by the lender, mortgage broker, and loan officer, as applicable, subject to review by the attorney general and the department of commerce.

Sec. 1501.04. There is hereby created in the department of natural resources a recreation and resources commission composed of the chairperson of the wildlife council created under section 1531.03 of the Revised Code, the chairperson of the parks and recreation council created under section 1541.40 of the Revised Code, the chairperson of the waterways safety council created under section 1547.73 of the Revised Code, the chairperson of the technical advisory council on oil and gas created under section 1509.38 of the Revised Code, the chairperson of the forestry advisory council created under section 1503.40 of the Revised Code, the chairperson of the Ohio soil and water conservation commission created under section 1515.02 of the Revised Code, the chairperson of the Ohio natural areas council created under section 1517.03 of the Revised Code, the chairperson of the Ohio

water advisory council created under section 1521.031 of the Revised Code, ~~the chairperson of the recycling and litter prevention advisory council created under section 1502.04 of the Revised Code,~~ the chairperson of the Ohio geology advisory council created under section 1505.11 of the Revised Code, and five members appointed by the governor with the advice and consent of the senate, not more than three of whom shall belong to the same political party. The director of natural resources shall be an ex officio member of the commission, with a voice in its deliberations, but without the power to vote.

Terms of office of members of the commission appointed by the governor shall be for five years, commencing on the second day of February and ending on the first day of February. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed.

In the event of the death, removal, resignation, or incapacity of a member of the commission, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The governor may remove any appointed member of the commission for misfeasance, nonfeasance, or malfeasance in office.

The commission shall exercise no administrative function, but may do any of the following:

(A) Advise with and recommend to the director as to plans and programs for the management, development, utilization, and conservation of the natural resources of the state;

(B) Advise with and recommend to the director as to methods

of coordinating the work of the divisions of the department;

(C) Consider and make recommendations upon any matter that the director may submit to it;

(D) Submit to the governor biennially recommendations for amendments to the conservation laws of the state.

Each member of the commission, before entering upon the discharge of the member's duties, shall take and subscribe to an oath of office, which oath, in writing, shall be filed in the office of the secretary of state.

The members of the commission shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties.

The commission, by a majority vote of all its members, shall adopt and amend bylaws.

To be eligible for appointment, a person shall be a citizen of the United States and an elector of the state and shall possess a knowledge of and have an interest in the natural resources of this state.

The commission shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the commission provide. Notices of all meetings shall be given in such manner as the bylaws provide. The commission shall choose annually from among its members a chairperson to preside over its meetings and a secretary to keep a record of its proceedings. A majority of the members of the commission constitutes a quorum. No advice shall be given or recommendation made without a majority of the members of the commission concurring in it.

Sec. 1503.012. There is hereby created in the state treasury

the forestry mineral royalties fund. The fund shall consist of money deposited into it under section 1509.73 of the Revised Code. Any investment proceeds earned on money in the fund shall be credited to the fund.

Money in the fund shall be used by the division of forestry to acquire land and to pay capital costs, including equipment and repairs and renovations of facilities, that are owned by the state and administered by the division. Expenditures from the fund for those purposes shall be approved by the director of natural resources.

The director of natural resources also may request the director of budget and management to transfer money from the forestry mineral royalties fund to the parks mineral royalties fund created in section 1541.26 of the Revised Code. The director of budget and management shall transfer the money pursuant to the request if the director consents to the request. Money that is transferred to the parks mineral royalties fund shall be used for the purposes specified in section 1541.26 of the Revised Code.

Sec. 1503.43. (A) As used in this section:

(1) "Wilderness area" means a contiguous area of relatively undeveloped state-owned land administered by the division of forestry and consisting of not less than five thousand acres or of sufficient size as to make practicable its preservation and use in an unimpaired condition that either has retained its natural character and influence or has been substantially restored to a near natural appearance and that meets both of the following qualifications:

(a) The area is one in which humankind's past influences are largely unnoticed;

(b) The area has outstanding opportunities for solitude or

for a primitive and unconfined type of recreation.

(2) "Utility facility" includes, without limitation, towers, poles, pipes, sewers, tubing, conduits, conductors, cables, valves, lines, wires, manholes, and appurtenances thereto owned by a utility facility operator.

(3) "Utility facility operator" means a person or public authority that supplies any of the following materials or services by means of a utility facility:

(a) Flammable, toxic, or corrosive gas;

(b) Crude oil, petroleum products, or hazardous liquids;

(c) Coal;

(d) Electricity;

(e) Electronic, telephonic, or telegraphic communications;

(f) Television signals;

(g) Sewage disposal or drainage;

(h) Potable water;

(i) Steam or hot water.

(B) That portion of contiguous state lands located in Scioto and Adams counties and within the Shawnee state forest and bounded by forest road seventeen and sunshine ridge to the north, by upper Twin Creek road to the east and northeast, by United States route fifty-two to the south, and by lower Twin Creek road to the west and southwest is hereby designated the Shawnee wilderness area. Except as otherwise specifically provided by this section or by rule adopted under this chapter, the provisions of this chapter apply to the Shawnee wilderness area, and that area shall continue to be a part of the Shawnee state forest.

(C) The Shawnee wilderness area shall be managed to preserve natural conditions and ensure the continuance of natural

processes. The chief of the division of forestry, with the approval of the director of natural resources, shall administer the Shawnee wilderness area in accordance with a management plan, which the chief shall develop and adopt within one year after September 14, 1988. Sixty days prior to adopting a plan, the chief shall solicit public review and comment on a draft plan. At least once every ten years, the chief shall conduct a review of the plan, with public input, and revise the plan as appropriate. The chief shall make the plan available for review by any person upon request.

(D) Notwithstanding any other authority granted to the chief under this chapter, the chief shall include within the management plan adopted under division (C) of this section prohibitions of the following activities within the Shawnee wilderness area except for the areas exempted in division (E) of this section:

(1) Picking, removal, cutting, or alteration in any manner of any vegetation unless the person first has obtained written consent from the chief for that activity and the action is necessary for appropriate public access, the preservation or restoration of a plant or wildlife species, or the documentation of scientific values;

(2) Granting of any easement or license, or sale or lease of any of the land, for any purpose. Division (D)(2) of this section does not apply to any private easement or license in existence on September 14, 1988.

(3) Exploration for or extraction of any coal, oil, gas, or minerals;

(4) Operation, construction, or installation of a utility facility above or below the surface of the land;

(5) Operation of a commercial enterprise;

(6) Except as provided in division (D)(7) of this section,

construction of a road upon any of the land or use of the land as a road;

(7) Except as is necessary to meet emergency requirements for administration of the area:

(a) Landing of an aircraft;

(b) Operation of a motor vehicle, motor boat, other form of mechanical transport, or motorized equipment;

(c) Construction of any building or other structure;

(d) Use of the land as a temporary road.

(E)(1) The following areas, which now are necessary for the administration of the Shawnee state forest and the state forest system, are not subject to the prohibitions of division (D) of this section:

(a) The Buena Vista manager's residence;

(b) The Buena Vista walnut seed orchard~~;~~

~~(c) The Twin Creek fire tower~~.

(2) The following areas, which now are necessary for the administration of the Shawnee state forest and the state forest system, are not subject to the prohibition established in division (D)(7)(b) of this section for the purpose of trail maintenance:

(a) The hiking trail west of upper Twin Creek road known as the wilderness loop;

(b) Buckhorn ridge bridle trail;

(c) Cabbage patch bridle trail.

(3) At any time that the chief makes a determination that it is no longer necessary for the administration of the Shawnee state forest or the state forest system for an area excluded in division (E)(1) or (2) of this section to be excluded, the area shall become subject to the prohibitions ~~of~~ established in division (D)

of this section or the prohibition established in division (D)(7)(b) of this section, as applicable.

(F) The chief, in developing a management plan under division (C) of this section, may not prohibit any hunting, fishing, or trapping that is done in conformity with Chapters 1531. and 1533. of the Revised Code or any rules adopted under those chapters.

Sec. 1506.42. The state, acting through the director of natural resources, subject to section 1506.46 of the Revised Code, may enter into agreements with counties, townships, municipal corporations, park boards, and conservancy districts, other political subdivisions, or any state departments or divisions for the purpose of constructing and maintaining projects to control erosion along the Ohio shoreline of Lake Erie and in any rivers and bays that are connected with Lake Erie and any other watercourses that flow into Lake Erie. Such projects also may be constructed on any Lake Erie island that is situated within the boundaries of the state.

The cost of such shore erosion projects that are for the benefit of public littoral property shall be prorated on the basis of two-thirds of the total cost to the state through appropriations made to the department of natural resources and one-third of the cost to the counties, townships, municipal corporations, park boards, conservancy districts, or other political subdivisions.

If a shore erosion emergency is declared by the governor, the state, acting through the director, may spend whatever state funds are available to alleviate shore erosion, without participation by any political subdivision, regardless of whether the project will benefit public or private littoral property.

A board of county commissioners, acting for the county over which it has jurisdiction, may enter into and carry out agreements

with the director for the construction and maintenance of projects to control shore erosion. In providing the funds for the county's proportionate share of the cost of constructing and maintaining the projects referred to in this section, the board shall be governed by and may issue and refund bonds in accordance with Chapter 133. of the Revised Code.

A municipal corporation or a township, acting through the legislative authority or the board of township trustees, may enter into and carry out agreements with the director for the purpose of constructing and maintaining projects to control shore erosion. In providing the funds for the municipal corporation's or township's proportionate share of the cost of constructing and maintaining the projects referred to in this section, a municipal corporation or township may issue and refund bonds in accordance with Chapter 133. of the Revised Code. The contract shall be executed on behalf of the municipal corporation or township by the mayor, city manager, or other chief executive officer who has the authority to act for the municipal corporation or township.

Conservancy districts may enter into and carry out agreements with the director, in accordance with the intent of this section, under the powers conferred upon conservancy districts under Chapter 6101. of the Revised Code.

Park boards may enter into and carry out agreements with the director, in accordance with the intent of this section, and issue bonds for that purpose under the powers conferred upon park districts under Chapter 1545. of the Revised Code.

The director shall approve and supervise all projects that are to be constructed in accordance with this section. The director shall not proceed with the construction of any project until all funds that are to be paid by the county, township, municipal corporation, park board, or conservancy district, in accordance with the terms of the agreement entered into between

the director and the county, township, municipal corporation, park board, or conservancy district, are in the director's possession and deposited in the shore erosion fund, which is hereby created in the state treasury. If the director finds it to be in the best interests of the state to construct projects as set forth in this section by the state itself, without the financial contribution of counties, townships, municipal corporations, park boards, or conservancy districts, the director may construct the projects.

In deciding whether to assist a county or municipal corporation in constructing and maintaining a project under this section, the state, acting through the director, shall consider, among other factors, whether the county or municipal corporation has adopted or is in the process of adopting a Lake Erie coastal erosion area resolution or ordinance under division (D) of section 1506.07 of the Revised Code.

All projects constructed by the state in conformity with sections 1506.38 to 1506.46 of the Revised Code shall be constructed subject to sections 153.01 to 153.20 of the Revised Code, except that the ~~state architect and engineer~~ Ohio facilities construction commission is not required to prepare the plans and specifications for those projects.

Sec. 1509.071. (A) When the chief of the division of oil and gas resources management finds that an owner has failed to comply with a final nonappealable order issued or compliance agreement entered into under section 1509.04, the restoration requirements of section 1509.072, plugging requirements of section 1509.12, or permit provisions of section 1509.13 of the Revised Code, or rules and orders relating thereto, the chief shall make a finding of that fact and declare any surety bond filed to ensure compliance with those sections and rules forfeited in the amount set by rule of the chief. The chief thereupon shall certify the total

forfeiture to the attorney general, who shall proceed to collect the amount of the forfeiture. In addition, the chief may require an owner, operator, producer, or other person who forfeited a surety bond to post a new surety bond in the amount of fifteen thousand dollars for a single well, thirty thousand dollars for two wells, or fifty thousand dollars for three or more wells.

In lieu of total forfeiture, the surety or owner, at the surety's or owner's option, may cause the well to be properly plugged and abandoned and the area properly restored or pay to the treasurer of state the cost of plugging and abandonment.

(B) All moneys collected because of forfeitures of bonds as provided in this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.

The chief annually shall spend not less than fourteen per cent of the revenue credited to the fund during the previous fiscal year for the following purposes:

(1) In accordance with division (D) of this section, to plug idle and orphaned wells or to restore the land surface properly as required in section 1509.072 of the Revised Code;

(2) In accordance with division (E) of this section, to correct conditions that the chief reasonably has determined are causing imminent health or safety risks at an idle and orphaned well or a well for which the owner cannot be contacted in order to initiate a corrective action within a reasonable period of time as determined by the chief.

Expenditures from the fund shall be made only for lawful purposes. In addition, expenditures from the fund shall not be made to purchase real property or to remove a dwelling in order to access a well.

(C)(1) Upon determining that the owner of a well has failed

to properly plug and abandon it or to properly restore the land surface at the well site in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it or that a well is an abandoned well for which no funds are available to plug the well in accordance with this chapter, the chief shall do all of the following:

(a) Determine from the records in the office of the county recorder of the county in which the well is located the identity of the owner of the land on which the well is located, the identity of the owner of the oil or gas lease under which the well was drilled or the identity of each person owning an interest in the lease, and the identities of the persons having legal title to, or a lien upon, any of the equipment appurtenant to the well;

(b) Mail notice to the owner of the land on which the well is located informing the landowner that the well is to be plugged. If the owner of the oil or gas lease under which the well was drilled is different from the owner of the well or if any persons other than the owner of the well own interests in the lease, the chief also shall mail notice that the well is to be plugged to the owner of the lease or to each person owning an interest in the lease, as appropriate.

(c) Mail notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at the well site at the person's own expense in order to avoid forfeiture of the equipment to this state.

(2) If none of the persons described in division (C)(1)(c) of this section plugs the well within sixty days after the mailing of the notice required by that division, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state

for use to defray the cost of plugging and abandoning the well and restoring the land surface at the well site.

(D) Expenditures from the fund for the purpose of division (B)(1) of this section shall be made in accordance with either of the following:

(1) The expenditures may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract for activities associated with the restoration or plugging of a well as determined by the chief. The activities may include excavation to uncover a well, geophysical methods to locate a buried well when clear evidence of leakage from the well exists, cleanout of wellbores to remove material from a failed plugging of a well, plugging operations, installation of vault and vent systems, including associated engineering certifications and permits, restoration of property, and repair of damage to property that is caused by such activities. Expenditures shall not be used for salaries, maintenance, equipment, or other administrative purposes, except for costs directly attributed to the plugging of an idle and orphaned well. Agents or employees of persons contracting with the chief for a restoration or plugging project may enter upon any land, public or private, on which the well is located for the purpose of performing the work. Prior to such entry, the chief shall give to the following persons written notice of the existence of a contract for a project to restore or plug a well, the names of the persons with whom the contract is made, and the date that the project will commence: the owner of the well, the owner of the land upon which the well is located, the owner or agents of adjoining land, and, if the well is located in the same township as or in a township adjacent to the excavations and workings of a mine and the owner or lessee of that mine has

provided written notice identifying those townships to the chief at any time during the immediately preceding three years, the owner or lessee of the mine.

(2)(a) The owner of the land on which a well is located who has received notice under division (C)(1)(b) of this section may plug the well and be reimbursed by the division of oil and gas resources management for the reasonable cost of plugging the well. In order to plug the well, the landowner shall submit an application to the chief on a form prescribed by the chief and approved by the technical advisory council on oil and gas created in section 1509.38 of the Revised Code. The application, at a minimum, shall require the landowner to provide the same information as is required to be included in the application for a permit to plug and abandon under section 1509.13 of the Revised Code. The application shall be accompanied by a copy of a proposed contract to plug the well prepared by a contractor regularly engaged in the business of plugging oil and gas wells. The proposed contract shall require the contractor to furnish all of the materials, equipment, work, and labor necessary to plug the well properly and shall specify the price for doing the work, including a credit for the equipment appurtenant to the well that was forfeited to the state through the operation of division (C)(2) of this section. Expenditures under division (D)(2)(a) of this section shall be consistent with the expenditures for activities described in division (D)(1) of this section. The application also shall be accompanied by the permit fee required by section 1509.13 of the Revised Code unless the chief, in the chief's discretion, waives payment of the permit fee. The application constitutes an application for a permit to plug and abandon the well for the purposes of section 1509.13 of the Revised Code.

(b) Within thirty days after receiving an application and

accompanying proposed contract under division (D)(2)(a) of this section, the chief shall determine whether the plugging would comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it and whether the cost of the plugging under the proposed contract is reasonable. If the chief determines that the proposed plugging would comply with those requirements and that the proposed cost of the plugging is reasonable, the chief shall notify the landowner of that determination and issue to the landowner a permit to plug and abandon the well under section 1509.13 of the Revised Code. Upon approval of the application and proposed contract, the chief shall transfer ownership of the equipment appurtenant to the well to the landowner. The chief may disapprove an application submitted under division (D)(2)(a) of this section if the chief determines that the proposed plugging would not comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, that the cost of the plugging under the proposed contract is unreasonable, or that the proposed contract is not a bona fide, arm's length contract.

(c) After receiving the chief's notice of the approval of the application and permit to plug and abandon a well under division (D)(2)(b) of this section, the landowner shall enter into the proposed contract to plug the well.

(d) Upon determining that the plugging has been completed in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, the chief shall reimburse the landowner for the cost of the plugging as set forth in the proposed contract approved by the chief. The reimbursement shall be paid from the oil and gas well fund. If the chief determines that the plugging was not completed in accordance with the applicable requirements, the chief shall not reimburse the landowner for the cost of the plugging, and the landowner or

the contractor, as applicable, promptly shall transfer back to this state title to and possession of the equipment appurtenant to the well that previously was transferred to the landowner under division (D)(2)(b) of this section. If any such equipment was removed from the well during the plugging and sold, the landowner shall pay to the chief the proceeds from the sale of the equipment, and the chief promptly shall pay the moneys so received to the treasurer of state for deposit into the oil and gas well fund.

The chief may establish an annual limit on the number of wells that may be plugged under division (D)(2) of this section or an annual limit on the expenditures to be made under that division.

As used in division (D)(2) of this section, "plug" and "plugging" include the plugging of the well and the restoration of the land surface disturbed by the plugging.

(E) Expenditures from the oil and gas well fund for the purpose of division (B)(2) of this section may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract. The competitive bidding requirements of Chapter 153. of the Revised Code do not apply if the chief reasonably determines that an emergency situation exists requiring immediate action for the correction of the applicable health or safety risk ~~requires immediate action~~. A contract or purchase of materials for purposes of addressing the emergency situation is not subject to division (B) of section 127.16 of the Revised Code. The chief, designated representatives of the chief, and agents or employees of persons contracting with the chief under this division may enter upon any land, public or private, for the purpose of performing the work.

(F) Contracts entered into by the chief under this section

are not subject to ~~either~~ any of the following:

(1) Chapter 4115. of the Revised Code;

(2) Section 153.54 of the Revised Code, except that the contractor shall obtain and provide to the chief as a bid guaranty a surety bond or letter of credit in an amount equal to ten per cent of the amount of the contract;

(3) Section 4733.17 of the Revised Code.

(G) The owner of land on which a well is located who has received notice under division (C)(1)(b) of this section, in lieu of plugging the well in accordance with division (D)(2) of this section, may cause ownership of the well to be transferred to an owner who is lawfully doing business in this state and who has met the financial responsibility requirements established under section 1509.07 of the Revised Code, subject to the approval of the chief. The transfer of ownership also shall be subject to the landowner's filing the appropriate forms required under section 1509.31 of the Revised Code and providing to the chief sufficient information to demonstrate the landowner's or owner's right to produce a formation or formations. That information may include a deed, a lease, or other documentation of ownership or property rights.

The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment

appurtenant to the well that has been identified by the chief as having been abandoned by the former owner;

(3) Complying with all applicable requirements that are necessary to drill deeper, plug the well, or plug back the well.

(H) The chief shall issue an order that requires the owner of a well to pay the actual documented costs of a corrective action that is described in division (B)(2) of this section concerning the well. The chief shall transmit the money so recovered to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund.

(I) The chief may engage in cooperative projects under this section with any agency of this state, another state, or the United States; any other governmental agencies; or any state university or college as defined in section 3345.27 of the Revised Code. A contract entered into for purposes of a cooperative project is not subject to division (B) of section 127.16 of the Revised Code.

Sec. 1533.081. (A) As used in this section:

(1) "Energy" has the same meaning as in section 1551.01 of the Revised Code.

(2) "Energy facility" means a facility at which energy is produced.

(B) A person operating an energy facility whose operation may result in the incidental taking of a wild animal shall obtain a permit to do so from the chief of the division of wildlife under this section. The chief shall adopt rules under section 1531.10 of the Revised Code that are necessary to administer this section.

Sec. 1533.10. Except as provided in this section or division (A)(2) of section 1533.12 of the Revised Code, no person shall

hunt any wild bird or wild quadruped without a hunting license. Each day that any person hunts within the state without procuring such a license constitutes a separate offense. Except as otherwise provided in this section, every applicant for a hunting license who is a resident of the state and eighteen years of age or more shall procure a resident hunting license or an apprentice resident hunting license, the fee for which shall be eighteen dollars unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident hunting license to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior hunting license, the fee for which shall be one-half of the regular hunting license fee. Every applicant who is under the age of eighteen years shall procure a special youth hunting license or an apprentice youth hunting license, the fee for which shall be one-half of the regular hunting license fee.

A resident of this state who owns lands in the state and the owner's children of any age and grandchildren under eighteen years of age may hunt on the lands without a hunting license. A resident of any other state who owns real property in this state, and the spouse and children living with the property owner, may hunt on that property without a license, provided that the state of residence of the real property owner allows residents of this state owning real property in that state, and the spouse and children living with the property owner, to hunt without a license. If the owner of land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's children of any age and grandchildren under eighteen years of age may hunt on the land owned by the

limited liability company or limited liability partnership without a hunting license. In addition, if the owner of land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's children of any age and grandchildren under eighteen years of age may hunt on the land owned by the trust without a hunting license. The tenant and children of the tenant, residing on lands in the state, may hunt on them without a hunting license.

Except as otherwise provided in division (A)(1) of section 1533.12 of the Revised Code, every applicant for a hunting license who is a nonresident of the state and who is eighteen years of age or older shall procure a nonresident hunting license or an apprentice nonresident hunting license, the fee for which shall be one hundred twenty-four dollars unless the applicant is a resident of a state that is a party to an agreement under section 1533.91 of the Revised Code, in which case the fee shall be eighteen dollars. Apprentice resident hunting licenses, apprentice youth hunting licenses, and apprentice nonresident hunting licenses are subject to the requirements established under section 1533.102 of the Revised Code and rules adopted pursuant to it.

The chief of the division of wildlife may issue a small game hunting license expiring three days from the effective date of the license to a nonresident of the state, the fee for which shall be thirty-nine dollars. No person shall take or possess deer, wild turkeys, fur-bearing animals, ducks, geese, brant, or any nongame animal while possessing only a small game hunting license. A small game hunting license or an apprentice nonresident hunting license does not authorize the taking or possessing of ducks, geese, or brant without having obtained, in addition to the small game hunting license or the apprentice nonresident hunting license, a wetlands habitat stamp as provided in section 1533.112 of the

Revised Code. A small game hunting license or an apprentice nonresident hunting license does not authorize the taking or possessing of deer, wild turkeys, or fur-bearing animals. A nonresident of the state who wishes to take or possess deer, wild turkeys, or fur-bearing animals in this state shall procure, respectively, a deer or wild turkey permit as provided in section 1533.11 of the Revised Code or a fur taker permit as provided in section 1533.111 of the Revised Code in addition to a nonresident hunting license, an apprentice nonresident hunting license, a special youth hunting license, or an apprentice youth hunting license, as applicable, as provided in this section.

No person shall procure or attempt to procure a hunting license by fraud, deceit, misrepresentation, or any false statement.

This section does not authorize the taking and possessing of deer or wild turkeys without first having obtained, in addition to the hunting license required by this section, a deer or wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks, geese, or brant without first having obtained, in addition to the hunting license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code.

This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code.

No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No hunting license, other than an apprentice hunting license, shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief. A previously held apprentice hunting license does not satisfy the requirement concerning the presentation of a previously held hunting license or evidence of it.

No person shall issue a hunting license, except an apprentice hunting license, to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license, other than an apprentice hunting license, without presenting to the issuing agent the evidence required by this section. Issuance of a hunting license in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained hunting license and the clerk or agent who issued the hunting license. Any hunting license issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt rules prescribing a hunter education and conservation course for first-time hunting license buyers, other than buyers of apprentice hunting licenses, and for volunteer instructors. The course shall consist of subjects including, but not limited to, hunter safety and health, use of hunting implements, hunting tradition and ethics, the hunter and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed, and other law relating to hunting. Authorized personnel of the division or volunteer instructors approved by the

chief shall conduct such courses with such frequency and at such locations throughout the state as to reasonably meet the needs of license applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

Sec. 1541.26. There is hereby created in the state treasury the parks mineral royalties fund. The fund shall consist of money deposited into it under section 1509.73 of the Revised Code and money transferred to it under section 1503.012 of the Revised Code. Any investment proceeds earned on money in the fund shall be credited to the fund.

Money in the fund shall be used by the division of parks and recreation to acquire land and to pay capital costs, including equipment and repairs and renovations of facilities, that are owned by the state and administered by the division. Expenditures from the fund shall be approved by the director of natural resources.

Sec. 1551.33. (A) The director of development shall appoint and fix the compensation of the director of the Ohio coal development office. The director shall serve at the pleasure of the director of development.

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

(1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code;

(2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda;

(3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal

development agenda;

(4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person;

(5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the director of development.

(6) Appoint specified members of and convene the technical advisory committee established under section 1551.35 of the Revised Code;

(7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public utilities commission a report recommending that the commission allow the recovery of costs associated with the facility or project under section 4905.304 of the Revised Code and including the reasons for the recommendation.

(8) Establish such policies, procedures, and guidelines as are necessary to achieve the office's purposes.

(C) ~~The~~ With the approval of the director of development, the director of the office may exercise any of the powers and duties

that the director of ~~the office~~ development considers appropriate or desirable to achieve the office's purposes, including, but not limited to, the powers and duties enumerated in sections 1551.11, 1551.12, and 1551.15 of the Revised Code.

Additionally, the director of the office may make loans to governmental agencies or persons for projects to carry out the office's purposes. Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of the loans shall be such as the director of the office determines to be appropriate and in furtherance of the purposes for which the loans are made. The mortgage lien securing any moneys lent by the director of the office may be subordinate to the mortgage lien securing any moneys lent or invested by a financial institution, but shall be superior to that securing any moneys lent or expended by any other person. The moneys used in making the loans shall be disbursed upon order of the director of the office.

Sec. 1555.02. It is hereby declared to be the public policy of this state through the operations of the Ohio coal development office under this chapter to contribute toward one or more of the following: to provide for the comfort, health, safety, and general welfare of all employees and other inhabitants of this state through research and development directed toward the discovery of new technologies or the demonstration or application of existing technologies to enable the conversion or use of Ohio coal as a fuel or chemical feedstock in an environmentally acceptable manner thereby enhancing the marketability and fostering the use of this state's vast reserves of coal, to assist in the financing of coal research and development and coal research and development projects or facilities for persons doing business in this state and educational and scientific institutions located in this state, to create or preserve jobs and employment opportunities or improve

the economic welfare of the people of this state, or to assist and cooperate with such persons and educational and scientific institutions in conducting coal research and development. In furtherance of this public policy, the Ohio coal development office, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the approval of the director of development, may make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by such persons or educational or scientific institutions; may, with the advice of the technical advisory committee and the approval of the director of development, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code to provide funds for making such loans, loan guarantees, and grants; and may, with the advice of the technical advisory committee and the approval of the director of development, expend moneys credited to the coal research and development fund created in section 1555.15 of the Revised Code for the purpose of making such loans, loan guarantees, and grants. Determinations by the director of the Ohio coal development office that coal research and development or a coal research and development facility is a coal research and development project under this chapter and is consistent with the purposes of Section 15 of Article VIII, Ohio Constitution, and this chapter shall be conclusive as to the validity and enforceability of the coal research and development general obligations issued to finance such project and of the authorizations, trust agreements or indentures, loan agreements, loan guarantee agreements, or grant agreements, and other agreements made in connection therewith, all in accordance with their terms.

Sec. 1555.03. For the purposes of this chapter, the director

of the Ohio coal development office may:

(A) With the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the approval of the director of development, make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by any such person or educational or scientific institution and adopt rules under Chapter 119. of the Revised Code for making such loans, guarantees, and grants.

(B) In making loans, loan guarantees, and grants under division (A) of this section and section 1555.04 of the Revised Code, the director of the office shall ensure that an adequate portion of the total amount of those loans, loan guarantees, and grants, as determined by the director with the advice of the technical advisory committee, is used for conducting research on fundamental scientific problems related to the utilization of Ohio coal and shall ensure, to the maximum feasible extent, joint financial participation by the federal government or other investors or interested parties in conjunction with any such loan, loan guarantee, or grant. The director, in each grant agreement or contract under division (A) of this section, loan contract or agreement under this division or section 1555.04 of the Revised Code, and contract of guarantee under section 1555.05 of the Revised Code, shall require that the facility or project be maintained and kept in good condition and repair by the person or educational or scientific institution to whom the grant or loan was made or for whom the guarantee was made.

(C) From time to time, with the advice of the technical advisory committee and the approval of the director of development, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code, for any of the purposes set forth in Section 15 of Article VIII, Ohio

Constitution, and subject to the limitations therein upon the aggregate total amount of obligations that may be outstanding at any time.

(D) Include as a condition of any loan, loan guarantee, or grant contract or agreement with any such person or educational or scientific institution that the director of the office receive, in addition to payments of principal and interest on any such loan or service charges for any such guarantee, as appropriate, as authorized by Section 15~~,~~ of Article VIII, Ohio Constitution, a reasonable royalty or portion of the income or profits arising out of the developments, discoveries, or inventions, including patents or copyrights, that result in whole or in part from coal research and development projects conducted under any such contract or agreement, in such amounts and for such period of years as may be negotiated and provided by the contract or agreement in advance of the making of the grant, loan, or loan guarantee. Moneys received by the director of the office under this section may be credited to the coal research and development bond service fund or used to make additional loans, loan guarantees, grants, or agreements under this section.

(E) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, and such other consultants and independent contractors as are necessary in the judgment of the director of the office to carry out this chapter, and fix the compensation thereof.

(F) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction or operation of any coal research and development project or for coal research and development, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied

only for the purposes for which such grants and contributions are made.

(G) Purchase fire and extended coverage and liability insurance for any coal research and development project, insurance protecting the office and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the director of the office determines necessary or proper under this chapter. Any moneys received by the director from the proceeds of any such insurance with respect to a coal research and development project and any moneys received by the director from the proceeds of any settlement, judgment, foreclosure, or other insurance with respect to a coal research and development project or facility shall be credited to the coal research and development bond service fund.

(H) In the exercise of the powers of the director of the office under this chapter, call to the director's assistance, temporarily, from time to time, any engineers, technical experts, financial experts, and other employees in any state department, agency, or commission, or in the Ohio state university, or other educational institutions financed wholly or partially by this state for purposes of assisting the director of the office with reviewing and evaluating applications for financial assistance under this chapter, monitoring performance of coal research and development projects receiving financial assistance under this chapter, and reviewing and evaluating the progress and findings of those projects. Such engineers, experts, and employees shall not receive any additional compensation over that which they receive from the department, agency, commission, or educational institution by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the director.

(I) Do all acts necessary or proper to carry out the powers

expressly granted in this chapter.

Sec. 1555.04. (A) With respect to coal research and development projects financed wholly or partially from a loan or loan guarantee under this chapter, the director of the Ohio coal development office, in addition to other powers under this chapter, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the approval of the director of development, may enter into loan agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take such actions as the director of the office considers appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale.

(B) The authority granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority granted by this section does not alter or impair any similar authority granted elsewhere in this chapter with respect to other projects.

Sec. 1555.05. (A) Subject to any limitations as to aggregate amounts thereof that may from time to time be prescribed by the general assembly and to other applicable provisions of this chapter, and subject to the one-hundred-million-dollar limitation provided in Section 15 of Article VIII, Ohio Constitution, the director of the Ohio coal development office, on behalf of this state, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the approval of the

director of development, may enter into contracts to guarantee the repayment or payment of the unpaid principal amount of loans made to pay the costs of coal research and development projects.

(B) The contract of guarantee may make provision for the conditions of, time for, and manner of fulfillment of the guarantee commitment, subrogation of this state to the rights of the parties guaranteed and exercise of such parties' rights by the state, giving the state the option of making payment of the principal amount guaranteed in one or more installments and, if deferred, to pay interest thereon from the source specified in division (A) of this section, and any other terms or conditions customary to such guarantees and as the director of the office may approve, and may contain provisions for securing the guarantee in the manner consistent with this section, covenants on behalf of this state to issue obligations under section 1555.08 of the Revised Code to provide moneys to fulfill such guarantees and covenants, and covenants restricting the aggregate amount of guarantees that may be contracted under this section and obligations that may be issued under section 151.07 of the Revised Code, and terms pertinent to either, to better secure the parties guaranteed.

(C) The director of the office may fix service charges for making a guarantee. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director. Moneys received from such charges shall be credited to the coal research and development bond service fund.

(D) Any guaranteed parties under this section, by any suitable form of legal proceedings and except to the extent that their rights are restricted by the guarantee documents, may protect and enforce any rights under the laws of this state or granted by such guarantee or guarantee documents. Such rights include the right to compel the performance of all duties of the

office required by this section or the guarantee or guarantee documents; and in the event of default with respect to the payment of any guarantees, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged to such guarantee with full power to pay, and to provide for payment of, such guarantee, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge or apply additional revenues or receipts or other income or moneys of this state. Each duty of the office and its director and employees required or undertaken under this section or a guarantee made under this section is hereby established as a duty of the office and of its director and each such employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the director of the office, or its employees, are not liable in their personal capacities on any guarantees or contracts to make guarantees by the director.

Sec. 1555.06. Upon application by the director of the Ohio coal development office <u>with the approval of the director of development</u>, the controlling board, from appropriations available to the board, may provide funds for surveys or studies by the office of any proposed coal research and development project subject to repayment by the office from funds available to it, within the time fixed by the board. Funds to be repaid shall be charged by the office to the appropriate coal research and development project and the amount thereof shall be a cost of the project. This section does not abrogate the authority of the controlling board to otherwise provide funds for use by the office in the exercise of the powers granted to it by this chapter.

Sec. 1707.08. (A) The transactions enumerated in section 1707.06 of the Revised Code may be consummated on compliance with this section and section 1707.11 of the Revised Code.

(B) A description, verified either by the oath of the individual filing it or of any individual having knowledge of the facts, shall be filed with the division of securities by the issuer, or by a majority of the incorporators of the issuer prior to election of officers if it is an incorporated issuer, or by a licensed dealer, which description shall be on forms prescribed by the division and shall set forth:

(1) The name of the issuer;

(2) A brief description of the securities;

(3) The amount of the securities to be offered after the filing of the description for sale in this state and, if all the securities are not to be offered by the person filing the description, then the respective amounts to be offered by others, so far as those amounts are known, and the names and addresses of the other offerors;

(4) A brief statement of the facts which show that the securities are the subject matter of a transaction enumerated in section 1707.06 of the Revised Code;

(5) The price at which the securities are to be offered for sale.

(C) The individual who executes the application for registration by description on behalf of the applicant shall state the individual's relationship to the applicant and certify all of the following:

(1) The individual has executed the application on behalf of the applicant.

(2) The individual is fully authorized to execute and file

the application on behalf of the applicant.

(3) The individual is familiar with the applicant's application.

(4) To the best of the individual's knowledge, information, and belief, the statements made in the application are true, and the documents submitted with the application are true copies of the original documents.

(D) A registration by description is effective seven business days after the division receives the description on applicable forms, together with ~~a~~ any filing fee ~~of fifty dollars~~ required under this division, if no proceeding is pending under section 1707.13 or 1707.131 of the Revised Code. However, the division may permit an earlier effective date by rule or by issuing a certificate of acknowledgment for the registration by description.

For an offering that exceeds fifty thousand dollars, a filing fee of fifty dollars shall be submitted with the registration by description.

(E) In order to correct errors or omissions, a registration by description may be amended by the person that originally filed it, by the filing, in the same manner as in the case of an original registration by description, of an amended registration by description or of an amendment of the original registration by description.

(F) When transactions in any securities enumerated in section 1707.06 of the Revised Code have been registered and the fees prescribed by this section have been paid, the transactions may be consummated so long as the registration remains in full force.

Sec. 1707.391. When any securities have been sold in reliance upon division (Q), (W), (X), or (Y) of section 1707.03 of the Revised Code, section 1707.08 of the Revised Code, or any other

section of this chapter that the division of securities may specify by rule, but such reliance was improper because the required filings were not timely or properly made due to excusable neglect, upon the effective date of an application made to the division and payment of ~~the required~~ any applicable fee, if required and not already paid, ~~plus~~ and upon payment of a penalty fee equal to the greater of the ~~required~~ fee or one hundred dollars, the sale of the securities shall be deemed exempt, qualified, or registered, as though timely and properly filed. The application shall become effective upon the expiration of fourteen days after the date of the filing in question if prior thereto the division did not give notice to the applicant that the application was denied based on a finding of lack of excusable neglect. The division shall promptly adopt and promulgate rules establishing provisions defining excusable neglect and otherwise establishing reasonable standards for determining excusable neglect.

The effectiveness of an application under this section does not relieve anyone who has, other than for excusable neglect, violated sections 1707.01 to 1707.45 of the Revised Code, or any previous law in force at the time of sale, from prosecution thereunder.

Sec. 1724.03. (A) After the articles of incorporation have been filed, and at the first meeting of the board of directors of a county land reutilization corporation, the board shall adopt regulations for the government of the corporation, the conduct of its affairs, and the management of its property, consistent with law and the articles. The content of the regulations shall be governed by section 1702.11 of the Revised Code to the extent not inconsistent with this chapter.

(B) The board of directors of a county land reutilization corporation shall be composed of five, seven, or nine members,

including the county treasurer, at least two of the members of the board of county commissioners, one representative of the largest municipal corporation, based on the population according to the most recent federal decennial census, that is located in the county, one representative of a township with a population of at least ten thousand in the unincorporated area of the township according to the most recent federal decennial census, if at least two such ~~a township exists~~ townships exist in the county, and any remaining members selected by the treasurer and the county commissioners who are members of the corporation's board. At least one board member shall have private sector or nonprofit experience in rehabilitation or real estate acquisitions. A county treasurer and the county commissioners each may appoint a representative, as a director of the corporation, to act for the officer at any of the meetings of the corporation. Except as may otherwise be authorized by the regulations of the corporation, all members of the board of directors shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

Sec. 1733.47. Whenever the approval of the superintendent of credit unions is required under this chapter, or under an order or supervisory action issued or taken under this chapter, for a person to serve as an organizer, incorporator, director, or executive officer of a credit union, or to otherwise participate in the management of a credit union, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the person's fingerprints in accordance with ~~division (A)(14) of~~ section 109.572 of the Revised Code. The superintendent of credit unions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section

109.572 of the Revised Code shall be paid by the person who is the subject of the request.

Sec. 1751.01. As used in this chapter:

(A)(1) "Basic health care services" means the following services when medically necessary:

(a) Physician's services, except when such services are supplemental under division (B) of this section;

(b) Inpatient hospital services;

(c) Outpatient medical services;

(d) Emergency health services;

(e) Urgent care services;

(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;

(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;

(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;

(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.

"Basic health care services" does not include experimental procedures.

Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a

health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(2) A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses without offering coverage for all other basic health care services. A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses alone or in combination with one or more supplemental health care services. However, a health insuring corporation that offers coverage for any other basic health care service shall offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services.

(3) A health insuring corporation that offers coverage for basic health care services is not required to offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services if all of the following apply:

(a) The health insuring corporation submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred

claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the health insuring corporation's costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year.

(b) The health insuring corporation submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase in costs described in division (A)(3)(a) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services.

(c) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (A)(3)(a) and (b) of this section:

(i) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the health insuring corporation's costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year.

(ii) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

(B)(1) "Supplemental health care services" means any health care services other than basic health care services that a health insuring corporation may offer, alone or in combination with

either basic health care services or other supplemental health care services, and includes:

(a) Services of facilities for intermediate or long-term care, or both;

(b) Dental care services;

(c) Vision care and optometric services including lenses and frames;

(d) Podiatric care or foot care services;

(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;

(f) Short-term outpatient evaluative and crisis-intervention mental health services;

(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;

(h) Home health services;

(i) Prescription drug services;

(j) Nursing services;

(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;

(l) Physical therapy services;

(m) Chiropractic services;

(n) Any other category of services approved by the superintendent of insurance.

(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.

(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.

(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

(E) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.

(F) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis.

(G) "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation.

(H) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another state.

(I) "Emergency health services" means those health care services that must be available on a seven-days-per-week, twenty-four-hours-per-day basis in order to prevent jeopardy to an enrollee's health status that would occur if such services were not received as soon as possible, and includes, where appropriate, provisions for transportation and indemnity payments or service agreements for out-of-area coverage.

(J) "Enrollee" means any natural person who is entitled to

receive health care benefits provided by a health insuring corporation.

(K) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan.

(L) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, mental retardation, intermediate care, or skilled nursing services.

(M) "Health care services" means basic, supplemental, and specialty health care services.

(N) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis.

(O) "Health insuring corporation" means a corporation, as defined in division (H) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health care services and either supplemental health care services or specialty health care services, through either an open panel plan or a closed panel plan.

"Health insuring corporation" does not include a limited liability company formed pursuant to Chapter 1705. of the Revised Code, an insurer licensed under Title XXXIX of the Revised Code if that insurer offers only open panel plans under which all providers and health care facilities participating receive their

compensation directly from the insurer, a corporation formed by or on behalf of a political subdivision or a department, office, or institution of the state, or a public entity formed by or on behalf of a board of county commissioners, a county board of developmental disabilities, an alcohol and drug addiction services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, as those terms are used in Chapters 340. and 5126. of the Revised Code. Except as provided by division (D) of section 1751.02 of the Revised Code, or as otherwise provided by law, no board, commission, agency, or other entity under the control of a political subdivision may accept insurance risk in providing for health care services. However, nothing in this division shall be construed as prohibiting such entities from purchasing the services of a health insuring corporation or a third-party administrator licensed under Chapter 3959. of the Revised Code.

(P) "Intermediary organization" means a health delivery network or other entity that contracts with licensed health insuring corporations or self-insured employers, or both, to provide health care services, and that enters into contractual arrangements with other entities for the provision of health care services for the purpose of fulfilling the terms of its contracts with the health insuring corporations and self-insured employers.

(Q) "Intermediate care" means residential care above the level of room and board for patients who require personal assistance and health-related services, but who do not require skilled nursing care.

(R) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(S) "Medical record" means the personal information that relates to an individual's physical or mental condition, medical history, or medical treatment.

(T) "Medicare" means the program established under Title XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 1395, as amended.

(U)(1) "Open panel plan" means a health care plan that provides incentives for enrollees to use participating providers and that also allows enrollees to use providers that are not participating providers.

(2) No health insuring corporation may offer an open panel plan, unless the health insuring corporation is also licensed as an insurer under Title XXXIX of the Revised Code, the health insuring corporation, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1736. or 1740. of the Revised Code, or an insurer licensed under Title XXXIX of the Revised Code is responsible for the out-of-network risk as evidenced by both an evidence of coverage filing under section 1751.11 of the Revised Code and a policy and certificate filing under section 3923.02 of the Revised Code.

(V) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:

(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician;

(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;

(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.

(W) "Panel" means a group of providers or health care facilities that have joined together to deliver health care

services through a contractual arrangement with a health insuring corporation, employer group, or other payor.

~~(W)~~(X) "Person" has the same meaning as in section 1.59 of the Revised Code, and, unless the context otherwise requires, includes any insurance company holding a certificate of authority under Title XXXIX of the Revised Code, any subsidiary and affiliate of an insurance company, and any government agency.

~~(X)~~(Y) "Premium rate" means any set fee regularly paid by a subscriber to a health insuring corporation. A "premium rate" does not include a one-time membership fee, an annual administrative fee, or a nominal access fee, paid to a managed health care system under which the recipient of health care services remains solely responsible for any charges accessed for those services by the provider or health care facility.

~~(Y)~~(Z) "Primary care provider" means a provider that is designated by a health insuring corporation to supervise, coordinate, or provide initial care or continuing care to an enrollee, and that may be required by the health insuring corporation to initiate a referral for specialty care and to maintain supervision of the health care services rendered to the enrollee.

~~(Z)~~(AA) "Provider" means any natural person or partnership of natural persons who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services, or any professional association organized under Chapter 1785. of the Revised Code, provided that nothing in this chapter or other provisions of law shall be construed to preclude a health insuring corporation, health care practitioner, or organized health care group associated with a health insuring corporation from employing certified nurse practitioners, certified nurse anesthetists, clinical nurse specialists, certified nurse midwives, dietitians, physician assistants, dental assistants,

dental hygienists, optometric technicians, or other allied health personnel who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services.

~~(AA)~~(BB) "Provider sponsored organization" means a corporation, as defined in division (H) of this section, that is at least eighty per cent owned or controlled by one or more hospitals, as defined in section 3727.01 of the Revised Code, or one or more physicians licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code, or any combination of such physicians and hospitals. Such control is presumed to exist if at least eighty per cent of the voting rights or governance rights of a provider sponsored organization are directly or indirectly owned, controlled, or otherwise held by any combination of the physicians and hospitals described in this division.

~~(BB)~~(CC) "Solicitation document" means the written materials provided to prospective subscribers or enrollees, or both, and used for advertising and marketing to induce enrollment in the health care plans of a health insuring corporation.

~~(CC)~~(DD) "Subscriber" means a person who is responsible for making payments to a health insuring corporation for participation in a health care plan, or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health insuring corporation.

~~(DD)~~(EE) "Urgent care services" means those health care services that are appropriately provided for an unforeseen condition of a kind that usually requires medical attention without delay but that does not pose a threat to the life, limb, or permanent health of the injured or ill person, and may include such health care services provided out of the health insuring corporation's approved service area pursuant to indemnity payments or service agreements.

Sec. 1751.02. (A) Notwithstanding any law in this state to the contrary, any corporation, as defined in section 1751.01 of the Revised Code, may apply to the superintendent of insurance for a certificate of authority to establish and operate a health insuring corporation. If the corporation applying for a certificate of authority is a foreign corporation domiciled in a state without laws similar to those of this chapter, the corporation must form a domestic corporation to apply for, obtain, and maintain a certificate of authority under this chapter.

(B) No person shall establish, operate, or perform the services of a health insuring corporation in this state without obtaining a certificate of authority under this chapter.

(C) Except as provided by division (D) of this section, no political subdivision or department, office, or institution of this state, or corporation formed by or on behalf of any political subdivision or department, office, or institution of this state, shall establish, operate, or perform the services of a health insuring corporation. Nothing in this section shall be construed to preclude a board of county commissioners, a county board of developmental disabilities, an alcohol and drug addiction services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, or a public entity formed by or on behalf of any of these boards, from using managed care techniques in carrying out the board's or public entity's duties pursuant to the requirements of Chapters 307., 329., 340., and 5126. of the Revised Code. However, no such board or public entity may operate so as to compete in the private sector with health insuring corporations holding certificates of authority under this chapter.

(D) A corporation formed by or on behalf of a publicly owned, operated, or funded hospital or health care facility may apply to

the superintendent for a certificate of authority under division (A) of this section to establish and operate a health insuring corporation.

(E) A health insuring corporation shall operate in this state in compliance with this chapter and Chapter 1753. of the Revised Code~~, and with sections 3702.51 to 3702.62 of the Revised Code,~~ and shall operate in conformity with its filings with the superintendent under this chapter, including filings made pursuant to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised Code.

(F) An insurer licensed under Title XXXIX of the Revised Code need not obtain a certificate of authority as a health insuring corporation to offer an open panel plan as long as the providers and health care facilities participating in the open panel plan receive their compensation directly from the insurer. If the providers and health care facilities participating in the open panel plan receive their compensation from any person other than the insurer, or if the insurer offers a closed panel plan, the insurer must obtain a certificate of authority as a health insuring corporation.

(G) An intermediary organization need not obtain a certificate of authority as a health insuring corporation, regardless of the method of reimbursement to the intermediary organization, as long as a health insuring corporation or a self-insured employer maintains the ultimate responsibility to assure delivery of all health care services required by the contract between the health insuring corporation and the subscriber and the laws of this state or between the self-insured employer and its employees.

Nothing in this section shall be construed to require any health care facility, provider, health delivery network, or intermediary organization that contracts with a health insuring

corporation or self-insured employer, regardless of the method of reimbursement to the health care facility, provider, health delivery network, or intermediary organization, to obtain a certificate of authority as a health insuring corporation under this chapter, unless otherwise provided, in the case of contracts with a self-insured employer, by operation of the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 1001, as amended.

(H) Any health delivery network doing business in this state, including any health delivery network that is functioning as an intermediary organization doing business in this state, that is not required to obtain a certificate of authority under this chapter shall certify to the superintendent annually, not later than the first day of July, and shall provide a statement signed by the highest ranking official which includes the following information:

(1) The health delivery network's full name and the address of its principal place of business;

(2) A statement that the health delivery network is not required to obtain a certificate of authority under this chapter to conduct its business.

(I) The superintendent shall not issue a certificate of authority to a health insuring corporation that is a provider sponsored organization unless all health care plans to be offered by the health insuring corporation provide basic health care services. Substantially all of the physicians and hospitals with ownership or control of the provider sponsored organization, as defined in section 1751.01 of the Revised Code, shall also be participating providers for the provision of basic health care services for health care plans offered by the provider sponsored organization. If a health insuring corporation that is a provider sponsored organization offers health care plans that do not

provide basic health care services, the health insuring corporation shall be deemed, for purposes of section 1751.35 of the Revised Code, to have failed to substantially comply with this chapter.

Except as specifically provided in this division and in division (A) of section 1751.28 of the Revised Code, the provisions of this chapter shall apply to all health insuring corporations that are provider sponsored organizations in the same manner that these provisions apply to all health insuring corporations that are not provider sponsored organizations.

(J) Nothing in this section shall be construed to apply to any multiple employer welfare arrangement operating pursuant to Chapter 1739. of the Revised Code.

(K) Any person who violates division (B) of this section, and any health delivery network that fails to comply with division (H) of this section, is subject to the penalties set forth in section 1751.45 of the Revised Code.

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, either directly or indirectly, enter into contracts for the provision of health care services with a sufficient number and types of providers and health care facilities to ensure that all covered health care services will be accessible to enrollees from a contracted provider or health care facility.

(b) A health insuring corporation shall not refuse to contract with a physician for the provision of health care services or refuse to recognize a physician as a specialist on the basis that the physician attended an educational program or a residency program approved or certified by the American osteopathic association. A health insuring corporation shall not refuse to contract with a health care facility for the provision of health care services on the basis that the health care facility

is certified or accredited by the American osteopathic association or that the health care facility is an osteopathic hospital ~~as defined in section 3702.51 of the Revised Code~~.

(c) Nothing in division (A)(1)(b) of this section shall be construed to require a health insuring corporation to make a benefit payment under a closed panel plan to a physician or health care facility with which the health insuring corporation does not have a contract, provided that none of the bases set forth in that division are used as a reason for failing to make a benefit payment.

(2) When a health insuring corporation is unable to provide a covered health care service from a contracted provider or health care facility, the health insuring corporation must provide that health care service from a noncontracted provider or health care facility consistent with the terms of the enrollee's policy, contract, certificate, or agreement. The health insuring corporation shall either ensure that the health care service be provided at no greater cost to the enrollee than if the enrollee had obtained the health care service from a contracted provider or health care facility, or make other arrangements acceptable to the superintendent of insurance.

(3) Nothing in this section shall prohibit a health insuring corporation from entering into contracts with out-of-state providers or health care facilities that are licensed, certified, accredited, or otherwise authorized in that state.

(B)(1) A health insuring corporation shall, either directly or indirectly, enter into contracts with all providers and health care facilities through which health care services are provided to its enrollees.

(2) A health insuring corporation, upon written request, shall assist its contracted providers in finding stop-loss or

reinsurance carriers.

(C) A health insuring corporation shall file an annual certificate with the superintendent certifying that all provider contracts and contracts with health care facilities through which health care services are being provided contain the following:

(1) A description of the method by which the provider or health care facility will be notified of the specific health care services for which the provider or health care facility will be responsible, including any limitations or conditions on such services;

(2) The specific hold harmless provision specifying protection of enrollees set forth as follows:

"[Provider/Health Care Facility] agrees that in no event, including but not limited to nonpayment by the health insuring corporation, insolvency of the health insuring corporation, or breach of this agreement, shall [Provider/Health Care Facility] bill, charge, collect a deposit from, seek remuneration or reimbursement from, or have any recourse against, a subscriber, enrollee, person to whom health care services have been provided, or person acting on behalf of the covered enrollee, for health care services provided pursuant to this agreement. This does not prohibit [Provider/Health Care Facility] from collecting co-insurance, deductibles, or copayments as specifically provided in the evidence of coverage, or fees for uncovered health care services delivered on a fee-for-service basis to persons referenced above, nor from any recourse against the health insuring corporation or its successor."

(3) Provisions requiring the provider or health care facility to continue to provide covered health care services to enrollees in the event of the health insuring corporation's insolvency or discontinuance of operations. The provisions shall require the

provider or health care facility to continue to provide covered health care services to enrollees as needed to complete any medically necessary procedures commenced but unfinished at the time of the health insuring corporation's insolvency or discontinuance of operations. The completion of a medically necessary procedure shall include the rendering of all covered health care services that constitute medically necessary follow-up care for that procedure. If an enrollee is receiving necessary inpatient care at a hospital, the provisions may limit the required provision of covered health care services relating to that inpatient care in accordance with division (D)(3) of section 1751.11 of the Revised Code, and may also limit such required provision of covered health care services to the period ending thirty days after the health insuring corporation's insolvency or discontinuance of operations.

The provisions required by division (C)(3) of this section shall not require any provider or health care facility to continue to provide any covered health care service after the occurrence of any of the following:

(a) The end of the thirty-day period following the entry of a liquidation order under Chapter 3903. of the Revised Code;

(b) The end of the enrollee's period of coverage for a contractual prepayment or premium;

(c) The enrollee obtains equivalent coverage with another health insuring corporation or insurer, or the enrollee's employer obtains such coverage for the enrollee;

(d) The enrollee or the enrollee's employer terminates coverage under the contract;

(e) A liquidator effects a transfer of the health insuring corporation's obligations under the contract under division (A)(8) of section 3903.21 of the Revised Code.

(4) A provision clearly stating the rights and responsibilities of the health insuring corporation, and of the contracted providers and health care facilities, with respect to administrative policies and programs, including, but not limited to, payments systems, utilization review, quality assurance, assessment, and improvement programs, credentialing, confidentiality requirements, and any applicable federal or state programs;

(5) A provision regarding the availability and confidentiality of those health records maintained by providers and health care facilities to monitor and evaluate the quality of care, to conduct evaluations and audits, and to determine on a concurrent or retrospective basis the necessity of and appropriateness of health care services provided to enrollees. The provision shall include terms requiring the provider or health care facility to make these health records available to appropriate state and federal authorities involved in assessing the quality of care or in investigating the grievances or complaints of enrollees, and requiring the provider or health care facility to comply with applicable state and federal laws related to the confidentiality of medical or health records.

(6) A provision that states that contractual rights and responsibilities may not be assigned or delegated by the provider or health care facility without the prior written consent of the health insuring corporation;

(7) A provision requiring the provider or health care facility to maintain adequate professional liability and malpractice insurance. The provision shall also require the provider or health care facility to notify the health insuring corporation not more than ten days after the provider's or health care facility's receipt of notice of any reduction or cancellation of such coverage.

(8) A provision requiring the provider or health care facility to observe, protect, and promote the rights of enrollees as patients;

(9) A provision requiring the provider or health care facility to provide health care services without discrimination on the basis of a patient's participation in the health care plan, age, sex, ethnicity, religion, sexual preference, health status, or disability, and without regard to the source of payments made for health care services rendered to a patient. This requirement shall not apply to circumstances when the provider or health care facility appropriately does not render services due to limitations arising from the provider's or health care facility's lack of training, experience, or skill, or due to licensing restrictions.

(10) A provision containing the specifics of any obligation on the primary care provider to provide, or to arrange for the provision of, covered health care services twenty-four hours per day, seven days per week;

(11) A provision setting forth procedures for the resolution of disputes arising out of the contract;

(12) A provision stating that the hold harmless provision required by division (C)(2) of this section shall survive the termination of the contract with respect to services covered and provided under the contract during the time the contract was in effect, regardless of the reason for the termination, including the insolvency of the health insuring corporation;

(13) A provision requiring those terms that are used in the contract and that are defined by this chapter, be used in the contract in a manner consistent with those definitions.

This division does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries

enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(D)(1) No health insuring corporation contract with a provider or health care facility shall contain any of the following:

(a) A provision that directly or indirectly offers an inducement to the provider or health care facility to reduce or limit medically necessary health care services to a covered enrollee;

(b) A provision that penalizes a provider or health care facility that assists an enrollee to seek a reconsideration of the health insuring corporation's decision to deny or limit benefits to the enrollee;

(c) A provision that limits or otherwise restricts the provider's or health care facility's ethical and legal responsibility to fully advise enrollees about their medical condition and about medically appropriate treatment options;

(d) A provision that penalizes a provider or health care facility for principally advocating for medically necessary health care services;

(e) A provision that penalizes a provider or health care facility for providing information or testimony to a legislative or regulatory body or agency. This shall not be construed to prohibit a health insuring corporation from penalizing a provider or health care facility that provides information or testimony that is libelous or slanderous or that discloses trade secrets

which the provider or health care facility has no privilege or permission to disclose.

(f) A provision that violates Chapter 3963. of the Revised Code.

(2) Nothing in this division shall be construed to prohibit a health insuring corporation from doing either of the following:

(a) Making a determination not to reimburse or pay for a particular medical treatment or other health care service;

(b) Enforcing reasonable peer review or utilization review protocols, or determining whether a particular provider or health care facility has complied with these protocols.

(E) Any contract between a health insuring corporation and an intermediary organization shall clearly specify that the health insuring corporation must approve or disapprove the participation of any provider or health care facility with which the intermediary organization contracts.

(F) If an intermediary organization that is not a health delivery network contracting solely with self-insured employers subcontracts with a provider or health care facility, the subcontract with the provider or health care facility shall do all of the following:

(1) Contain the provisions required by divisions (C) and (G) of this section, as made applicable to an intermediary organization, without the inclusion of inducements or penalties described in division (D) of this section;

(2) Acknowledge that the health insuring corporation is a third-party beneficiary to the agreement;

(3) Acknowledge the health insuring corporation's role in approving the participation of the provider or health care facility, pursuant to division (E) of this section.

(G) Any provider contract or contract with a health care facility shall clearly specify the health insuring corporation's statutory responsibility to monitor and oversee the offering of covered health care services to its enrollees.

(H)(1) A health insuring corporation shall maintain its provider contracts and its contracts with health care facilities at one or more of its places of business in this state, and shall provide copies of these contracts to facilitate regulatory review upon written notice by the superintendent of insurance.

(2) Any contract with an intermediary organization that accepts compensation shall include provisions requiring the intermediary organization to provide the superintendent with regulatory access to all books, records, financial information, and documents related to the provision of health care services to subscribers and enrollees under the contract. The contract shall require the intermediary organization to maintain such books, records, financial information, and documents at its principal place of business in this state and to preserve them for at least three years in a manner that facilitates regulatory review.

(I)(1) A health insuring corporation shall notify its affected enrollees of the termination of a contract for the provision of health care services between the health insuring corporation and a primary care physician or hospital, by mail, within thirty days after the termination of the contract.

(a) Notice shall be given to subscribers of the termination of a contract with a primary care physician if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from the primary care physician within the previous twelve months or if the subscriber or dependent has selected the physician as the subscriber's or dependent's primary care physician within the previous twelve months.

(b) Notice shall be given to subscribers of the termination of a contract with a hospital if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from that hospital within the previous twelve months.

(2) The health insuring corporation shall pay, in accordance with the terms of the contract, for all covered health care services rendered to an enrollee by a primary care physician or hospital between the date of the termination of the contract and five days after the notification of the contract termination is mailed to a subscriber at the subscriber's last known address.

(J) Divisions (A) and (B) of this section do not apply to any health insuring corporation that, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1740. of the Revised Code.

(K) Nothing in this section shall restrict the governing body of a hospital from exercising the authority granted it pursuant to section 3701.351 of the Revised Code.

Sec. 1761.26. Whenever the approval of the superintendent of credit unions is required under this chapter, or under an order or supervisory action issued or taken under this chapter, for a person to serve as an organizer, incorporator, director, or executive officer of a credit union share guaranty corporation, or to otherwise participate in the management of such a corporation, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the person's fingerprints in accordance with ~~division (A)(14) of~~ section 109.572 of the Revised Code. The superintendent of credit unions shall request that criminal record information from the federal bureau of investigation be obtained as part of the

criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the person who is the subject of the request.

Sec. 1901.06. A municipal judge during the judge's term of office shall be a qualified elector and a resident of the territory of the court to which the judge is elected or appointed. A municipal judge shall have been admitted to the practice of law in this state and shall have been, for a total of at least six years preceding appointment or the commencement of the judge's term, engaged in the practice of law in this state or served as a judge of a court of record in any jurisdiction in the United States, or both. ~~At least two of the years of practice or service that qualify a judge shall have been in this state.~~

Except as provided in section 1901.08 of the Revised Code, the first election of any newly created office of a municipal judge shall be held at the next regular municipal election occurring not less than one hundred days after the creation of the office. Except as otherwise provided in division (G) of section 1901.01 of the Revised Code, the institution of a new municipal court shall take place on the first day of January next after the first election for the court.

Sec. 1901.18. (A) Except as otherwise provided in this division or section 1901.181 of the Revised Code, subject to the monetary jurisdiction of municipal courts as set forth in section 1901.17 of the Revised Code, a municipal court has original jurisdiction within its territory in all of the following actions or proceedings and to perform all of the following functions:

(1) In any civil action, of whatever nature or remedy, of which judges of county courts have jurisdiction;

(2) In any action or proceeding at law for the recovery of

money or personal property of which the court of common pleas has jurisdiction;

(3) In any action at law based on contract, to determine, preserve, and enforce all legal and equitable rights involved in the contract, to decree an accounting, reformation, or cancellation of the contract, and to hear and determine all legal and equitable remedies necessary or proper for a complete determination of the rights of the parties to the contract;

(4) In any action or proceeding for the sale of personal property under chattel mortgage, lien, encumbrance, or other charge, for the foreclosure and marshalling of liens on personal property of that nature, and for the rendering of personal judgment in the action or proceeding;

(5) In any action or proceeding to enforce the collection of its own judgments or the judgments rendered by any court within the territory to which the municipal court has succeeded, and to subject the interest of a judgment debtor in personal property to satisfy judgments enforceable by the municipal court;

(6) In any action or proceeding in the nature of interpleader;

(7) In any action of replevin;

(8) In any action of forcible entry and detainer;

(9) In any action concerning the issuance and enforcement of temporary protection orders pursuant to section 2919.26 of the Revised Code or protection orders pursuant to section 2903.213 of the Revised Code or the enforcement of protection orders issued by courts of another state, as defined in section 2919.27 of the Revised Code;

(10) If the municipal court has a housing or environmental division, in any action over which the division is given

jurisdiction by section 1901.181 of the Revised Code, provided that, except as specified in division (B) of that section, no judge of the court other than the judge of the division shall hear or determine any action over which the division has jurisdiction;

(11) In any action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the Revised Code, if the residential premises that are the subject of the action are located within the territorial jurisdiction of the court;

(12) In any civil action as described in division (B)(1) of section 3767.41 of the Revised Code that relates to a public nuisance, and, to the extent any provision of this chapter conflicts or is inconsistent with a provision of that section, the provision of that section shall control in the civil action;

(13) In a proceeding brought pursuant to section 955.222 of the Revised Code by the owner of a dog that has been designated as a nuisance dog, dangerous dog, or vicious dog.

(B) The Cleveland municipal court also shall have jurisdiction within its territory in all of the following actions or proceedings and to perform all of the following functions:

(1) In all actions and proceedings for the sale of real property under lien of a judgment of the municipal court or a lien for machinery, material, or fuel furnished or labor performed, irrespective of amount, and, in those actions and proceedings, the court may proceed to foreclose and marshal all liens and all vested or contingent rights, to appoint a receiver, and to render personal judgment irrespective of amount in favor of any party.

(2) In all actions for the foreclosure of a mortgage on real property given to secure the payment of money or the enforcement of a specific lien for money or other encumbrance or charge on real property, when the amount claimed by the plaintiff does not exceed fifteen thousand dollars and the real property is situated

within the territory, and, in those actions, the court may proceed to foreclose all liens and all vested and contingent rights and may proceed to render judgments and make findings and orders between the parties in the same manner and to the same extent as in similar actions in the court of common pleas.

(3) In all actions for the recovery of real property situated within the territory to the same extent as courts of common pleas have jurisdiction;

(4) In all actions for injunction to prevent or terminate violations of the ordinances and regulations of the city of Cleveland enacted or promulgated under the police power of the city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio Constitution, over which the court of common pleas has or may have jurisdiction, and, in those actions, the court may proceed to render judgments and make findings and orders in the same manner and to the same extent as in similar actions in the court of common pleas.

Sec. 1907.13. A county court judge, at the time of filing a nominating petition for the office or at the time of appointment to the office and during the judge's term of office, shall be a qualified elector and a resident of the county court district in which the judge is elected or appointed. A county court judge does not have to be a resident of an area of separate jurisdiction in the county court district to which the judge may be assigned pursuant to section 1907.15 of the Revised Code. Every county court judge shall have been admitted to the practice of law in this state and shall have been engaged, for a total of at least six years preceding the judge's appointment or the commencement of the judge's term, in the practice of law in ~~any jurisdiction in the United States~~ this state, except that the six-year practice requirement does not apply to a county court judge who is holding

office on ~~July 2, 2010~~ the effective date of the amendment of this section by H.B. 487 of the 129th general assembly, and who subsequently is a candidate for that office. ~~At least two of the years of practice that qualify a judge shall have been in this state.~~

Judges shall be elected by the electors of the county court district at the general election in even-numbered years as set forth in section 1907.11 of the Revised Code for a term of six years commencing on the first day of January following the election for the county court or on the dates specified in section 1907.11 of the Revised Code for particular county court judges. Their successors shall be elected in even-numbered years every six years.

All candidates for county court judge shall be nominated by petition. The nominating petition shall be in the general form and signed and verified as prescribed by section 3513.261 of the Revised Code and shall be signed by the lesser of fifty qualified electors of the county court district or a number of qualified electors of the county court district not less than one per cent of the number of electors who voted for governor at the most recent regular state election in the district. A nominating petition shall not be accepted for filing or filed if it appears on its face to contain signatures aggregating in number more than twice the minimum aggregate number of signatures required by this section. A nominating petition shall be filed with the board of elections not later than four p.m. of the ninetieth day before the day of the general election.

Sec. 1909.11. A county court judge has jurisdiction in any action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the Revised Code if the residential premises that are the subject of the action are located within the territorial

jurisdiction of the judge's county court district.

Sec. 1923.01. (A) As provided in this chapter, any judge of a county or municipal court or a court of common pleas, within the judge's proper area of jurisdiction, may inquire about persons who make unlawful and forcible entry into lands or tenements and detain them, and about persons who make a lawful and peaceable entry into lands or tenements and hold them unlawfully and by force. If, upon the inquiry, it is found that an unlawful and forcible entry has been made and the lands or tenements are detained, or that, after a lawful entry, lands or tenements are held unlawfully and by force, a judge shall cause the plaintiff in an action under this chapter to have restitution of the lands or tenements.

(B) An action shall be brought under this chapter within two years after the cause of action accrues.

(C) As used in this chapter:

(1) "Tenant" means a person who is entitled under a rental agreement to the use or occupancy of premises, other than premises located in a manufactured home park, to the exclusion of others, except that as used in division (A)(6) of section 1923.02 and section 1923.051 of the Revised Code, "tenant" includes a manufactured home park resident.

(2) "Landlord" means the owner, lessor, or sublessor of premises, or the agent or person the landlord authorizes to manage premises or to receive rent from a tenant under a rental agreement, except, if required by the facts of the action to which the term is applied, "landlord" means a park operator.

(3) "Resident" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code.

(4) "Residential premises" has the same meaning as in section

5321.01 of the Revised Code, except, if required by the facts of the action to which the term is applied, "residential premises" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code.

(5) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or other provisions concerning the use or occupancy of premises by one of the parties to the agreement or lease, except that "rental agreement," as used in division (A)(13) of section 1923.02 of the Revised Code and where the context requires as used in this chapter, means a rental agreement as defined in division (D) of section 5322.01 of the Revised Code.

(6) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(7) "School premises" has the same meaning as in section 2925.01 of the Revised Code.

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

(9) "Recreational vehicle" and "mobile home" have the same meanings as in section 4501.01 of the Revised Code.

(10) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code.

(11) "Manufactured home park" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code and also means any tract of land upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and the owner of the tract of land.

(12) "Park operator" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code and also means a landlord of premises upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and a landlord who is not licensed as a manufactured home park operator pursuant to Chapter ~~3733.~~ 4781. of the Revised Code.

(13) "Personal property" means tangible personal property other than a manufactured home, mobile home, or recreational vehicle that is the subject of an action under this chapter.

(14) "Preschool or child day-care center premises" has the same meaning as in section 2950.034 of the Revised Code.

Sec. 1923.02. (A) Proceedings under this chapter may be had as follows:

(1) Against tenants or manufactured home park residents holding over their terms;

(2) Against tenants or manufactured home park residents in possession under an oral tenancy, who are in default in the payment of rent as provided in division (B) of this section;

(3) In sales of real estate, on executions, orders, or other judicial process, when the judgment debtor was in possession at the time of the rendition of the judgment or decree, by virtue of which the sale was made;

(4) In sales by executors, administrators, or guardians, and on partition, when any of the parties to the complaint were in possession at the commencement of the action, after the sales, so made on execution or otherwise, have been examined by the proper court and adjudged legal;

(5) When the defendant is an occupier of lands or tenements,

without color of title, and the complainant has the right of possession to them;

(6) In any other case of the unlawful and forcible detention of lands or tenements. For purposes of this division, in addition to any other type of unlawful and forcible detention of lands or tenements, such a detention may be determined to exist when both of the following apply:

(a) A tenant fails to vacate residential premises within three days after both of the following occur:

(i) The tenant's landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation of Chapter 2925. or 3719. of the Revised Code, or of a municipal ordinance that is substantially similar to any section in either of those chapters, which involves a controlled substance and which occurred in, is occurring in, or otherwise was or is connected with the premises, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in this division. For purposes of this division, a landlord has "actual knowledge of or has reasonable cause to believe" that a tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in this division if a search warrant was issued pursuant to Criminal Rule 41 or Chapter 2933. of the Revised Code; the affidavit presented to obtain the warrant named or described the tenant or person as the individual to be searched and particularly described the tenant's premises as the place to be searched, named or described one or more controlled substances to be searched for

and seized, stated substantially the offense under Chapter 2925. or 3719. of the Revised Code or the substantially similar municipal ordinance that occurred in, is occurring in, or otherwise was or is connected with the tenant's premises, and states the factual basis for the affiant's belief that the controlled substances are located on the tenant's premises; the warrant was properly executed by a law enforcement officer and any controlled substance described in the affidavit was found by that officer during the search and seizure; and, subsequent to the search and seizure, the landlord was informed by that or another law enforcement officer of the fact that the tenant or person has or presently is engaged in a violation as described in this division and it occurred in, is occurring in, or otherwise was or is connected with the tenant's premises.

(ii) The landlord gives the tenant the notice required by division (C) of section 5321.17 of the Revised Code.

(b) The court determines, by a preponderance of the evidence, that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of this section.

(7) In cases arising out of Chapter 5313. of the Revised Code. In those cases, the court has the authority to declare a forfeiture of the vendee's rights under a land installment contract and to grant any other claims arising out of the contract.

(8) Against tenants who have breached an obligation that is imposed by section 5321.05 of the Revised Code, other than the obligation specified in division (A)(9) of that section, and that materially affects health and safety. Prior to the commencement of an action under this division, notice shall be given to the tenant and compliance secured with section 5321.11 of the Revised Code.

(9) Against tenants who have breached an obligation imposed upon them by a written rental agreement;

(10) Against manufactured home park residents who have defaulted in the payment of rent or breached the terms of a rental agreement with a park operator. Nothing in this division precludes the commencement of an action under division (A)(12) of this section when the additional circumstances described in that division apply.

(11) Against manufactured home park residents who have committed two material violations of the rules of the manufactured home park, of the ~~public health council~~ manufactured homes commission, or of applicable state and local health and safety codes and who have been notified of the violations in compliance with section ~~3733.13~~ 4781.45 of the Revised Code;

(12) Against a manufactured home park resident, or the estate of a manufactured home park resident, who as a result of death or otherwise has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of an action under this division and whose manufactured home or mobile home, or recreational vehicle that is parked in the manufactured home park, has been left unoccupied for that thirty-day period, without notice to the park operator and without payment of rent due under the rental agreement with the park operator;

(13) Against occupants of self-service storage facilities, as defined in division (A) of section 5322.01 of the Revised Code, who have breached the terms of a rental agreement or violated section 5322.04 of the Revised Code;

(14) Against any resident or occupant who, pursuant to a rental agreement, resides in or occupies residential premises located within one thousand feet of any school premises or preschool or child day-care center premises and to whom both of

the following apply:

(a) The resident's or occupant's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code.

(b) The state registry of sex offenders and child-victim offenders indicates that the resident or occupant was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

(15) Against any tenant who permits any person to occupy residential premises located within one thousand feet of any school premises or preschool or child day-care center premises if both of the following apply to the person:

(a) The person's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code.

(b) The state registry of sex offenders and child-victim offenders indicates that the person was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

(B) If a tenant or manufactured home park resident holding under an oral tenancy is in default in the payment of rent, the tenant or resident forfeits the right of occupancy, and the landlord may, at the landlord's option, terminate the tenancy by notifying the tenant or resident, as provided in section 1923.04 of the Revised Code, to leave the premises, for the restitution of which an action may then be brought under this chapter.

(C)(1) If a tenant or any other person with the tenant's permission resides in or occupies residential premises that are

located within one thousand feet of any school premises and is a resident or occupant of the type described in division (A)(14) of this section or a person of the type described in division (A)(15) of this section, the landlord for those residential premises, upon discovery that the tenant or other person is a resident, occupant, or person of that nature, may terminate the rental agreement or tenancy for those residential premises by notifying the tenant and all other occupants, as provided in section 1923.04 of the Revised Code, to leave the premises.

(2) If a landlord is authorized to terminate a rental agreement or tenancy pursuant to division (C)(1) of this section but does not so terminate the rental agreement or tenancy, the landlord is not liable in a tort or other civil action in damages for any injury, death, or loss to person or property that allegedly result from that decision.

(D) This chapter does not apply to a student tenant as defined by division (H) of section 5321.01 of the Revised Code when the college or university proceeds to terminate a rental agreement pursuant to section 5321.031 of the Revised Code.

Sec. 1923.061. (A) Any defense in an action under this chapter may be asserted at trial.

(B) In an action for possession of residential premises based upon nonpayment of the rent or in an action for rent when the tenant or manufactured home park resident is in possession, the tenant or resident may counterclaim for any amount ~~he~~ the tenant or resident may recover under the rental agreement or under Chapter ~~3733.~~ 4781. or 5321. of the Revised Code. In that event, the court from time to time may order the tenant or resident to pay into court all or part of the past due rent and rent becoming due during the pendency of the action. After trial and judgment, the party to whom a net judgment is owed shall be paid first from

the money paid into court, and any balance shall be satisfied as any other judgment. If no rent remains due after application of this division, judgment shall be entered for the tenant or resident in the action for possession. If the tenant or resident has paid into court an amount greater than that necessary to satisfy a judgment obtained by the landlord, the balance shall be returned by the court to the tenant or resident.

Sec. 1923.15. During any proceeding involving residential premises under this chapter, the court may order an appropriate governmental agency to inspect the residential premises. If the agency determines and the court finds conditions which constitute a violation of section ~~3733.10~~ 4781.38 or 5321.04 of the Revised Code, and if the premises have been vacated or are to be restored to the landlord, the court may issue an order forbidding the re-rental of the property until such conditions are corrected. If the agency determines and the court finds such conditions, and if the court finds that the tenant or manufactured home park resident may remain in possession, the court may order such conditions corrected. If such conditions have been caused by the tenant or resident, the court may award damages to the landlord equal to the reasonable cost of correcting such conditions.

Sec. 2151.33. (A) Pending hearing of a complaint filed under section 2151.27 of the Revised Code or a motion filed or made under division (B) of this section and the service of citations, the juvenile court may make any temporary disposition of any child that it considers necessary to protect the best interest of the child and that can be made pursuant to division (B) of this section. Upon the certificate of one or more reputable practicing physicians, the court may summarily provide for emergency medical and surgical treatment that appears to be immediately necessary to preserve the health and well-being of any child concerning whom a

complaint or an application for care has been filed, pending the service of a citation upon the child's parents, guardian, or custodian. The court may order the parents, guardian, or custodian, if the court finds the parents, guardian, or custodian able to do so, to reimburse the court for the expense involved in providing the emergency medical or surgical treatment. Any person who disobeys the order for reimbursement may be adjudged in contempt of court and punished accordingly.

If the emergency medical or surgical treatment is furnished to a child who is found at the hearing to be a nonresident of the county in which the court is located and if the expense of the medical or surgical treatment cannot be recovered from the parents, legal guardian, or custodian of the child, the board of county commissioners of the county in which the child has a legal settlement shall reimburse the court for the reasonable cost of the emergency medical or surgical treatment out of its general fund.

(B)(1) After a complaint, petition, writ, or other document initiating a case dealing with an alleged or adjudicated abused, neglected, or dependent child is filed and upon the filing or making of a motion pursuant to division (C) of this section, the court, prior to the final disposition of the case, may issue any of the following temporary orders to protect the best interest of the child:

(a) An order granting temporary custody of the child to a particular party;

(b) An order for the taking of the child into custody pursuant to section 2151.31 of the Revised Code pending the outcome of the adjudicatory and dispositional hearings;

(c) An order granting, limiting, or eliminating parenting time or visitation rights with respect to the child;

(d) An order requiring a party to vacate a residence that will be lawfully occupied by the child;

(e) An order requiring a party to attend an appropriate counseling program that is reasonably available to that party;

(f) Any other order that restrains or otherwise controls the conduct of any party which conduct would not be in the best interest of the child.

(2) Prior to the final disposition of a case subject to division (B)(1) of this section, the court shall do both of the following:

(a) Issue an order pursuant to Chapters 3119. to 3125. of the Revised Code requiring the parents, guardian, or person charged with the child's support to pay support for the child.

(b) Issue an order requiring the parents, guardian, or person charged with the child's support to continue to maintain any health insurance coverage for the child that existed at the time of the filing of the complaint, petition, writ, or other document, or to obtain health insurance coverage in accordance with sections 3119.29 to 3119.56 of the Revised Code.

(C)(1) A court may issue an order pursuant to division (B) of this section upon its own motion or if a party files a written motion or makes an oral motion requesting the issuance of the order and stating the reasons for it. Any notice sent by the court as a result of a motion pursuant to this division shall contain a notice that any party to a juvenile proceeding has the right to be represented by counsel and to have appointed counsel if the person is indigent.

(2) If a child is taken into custody pursuant to section 2151.31 of the Revised Code and placed in shelter care, the public children services agency or private child placing agency with which the child is placed in shelter care shall file or make a

motion as described in division (C)(1) of this section before the end of the next day immediately after the date on which the child was taken into custody and, at a minimum, shall request an order for temporary custody under division (B)(1)(a) of this section.

(3) A court that issues an order pursuant to division (B)(1)(b) of this section shall comply with section 2151.419 of the Revised Code.

(D) The court may grant an ex parte order upon its own motion or a motion filed or made pursuant to division (C) of this section requesting such an order if it appears to the court that the best interest and the welfare of the child require that the court issue the order immediately. The court, if acting on its own motion, or the person requesting the granting of an ex parte order, to the extent possible, shall give notice of its intent or of the request to the parents, guardian, or custodian of the child who is the subject of the request. If the court issues an ex parte order, the court shall hold a hearing to review the order within seventy-two hours after it is issued or before the end of the next day after the day on which it is issued, whichever occurs first. The court shall give written notice of the hearing to all parties to the action and shall appoint a guardian ad litem for the child prior to the hearing.

The written notice shall be given by all means that are reasonably likely to result in the party receiving actual notice and shall include all of the following:

(1) The date, time, and location of the hearing;

(2) The issues to be addressed at the hearing;

(3) A statement that every party to the hearing has a right to counsel and to court-appointed counsel, if the party is indigent;

(4) The name, telephone number, and address of the person

requesting the order;

(5) A copy of the order, except when it is not possible to obtain it because of the exigent circumstances in the case.

If the court does not grant an ex parte order pursuant to a motion filed or made pursuant to division (C) of this section or its own motion, the court shall hold a shelter care hearing on the motion within ten days after the motion is filed. The court shall give notice of the hearing to all affected parties in the same manner as set forth in the Juvenile Rules.

(E) The court, pending the outcome of the adjudicatory and dispositional hearings, shall not issue an order granting temporary custody of a child to a public children services agency or private child placing agency pursuant to this section, unless the court determines and specifically states in the order that the continued residence of the child in the child's current home will be contrary to the child's best interest and welfare and the court complies with section 2151.419 of the Revised Code.

(F) Each public children services agency and private child placing agency that receives temporary custody of a child pursuant to this section shall maintain in the child's case record written documentation that it has placed the child, to the extent that it is consistent with the best interest, welfare, and special needs of the child, in the most family-like setting available and in close proximity to the home of the parents, custodian, or guardian of the child.

(G) For good cause shown, any court order that is issued pursuant to this section may be reviewed by the court at any time upon motion of any party to the action or upon the motion of the court.

<u>(H)(1) Pending the hearing of a complaint filed under section 2151.27 of the Revised Code or a motion filed or made under</u>

division (B) of this section and the service of citations, a public children services agency may request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each parent, guardian, custodian, prospective custodian, or prospective placement whose actions resulted in a temporary disposition under division (A) of this section. The public children services agency may request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of each parent, guardian, custodian, prospective custodian, or prospective placement.

(2) Each public children services agency authorized by division (H) of this section to request a criminal records check shall do both of the following:

(a) Provide to each parent, guardian, custodian, prospective custodian, or prospective placement for whom a criminal records check is requested a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section and obtain the completed form and impression sheet from the parent, guardian, custodian, prospective custodian, or prospective placement;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) A parent, guardian, custodian, prospective custodian, or prospective placement who is given a form and fingerprint impression sheet under division (H)(2)(a) of this section and who fails to complete the form or provide fingerprint impressions may be held in contempt of court.

Sec. 2151.412. (A) Each public children services agency and

private child placing agency shall prepare and maintain a case plan for any child to whom the agency is providing services and to whom any of the following applies:

(1) The agency filed a complaint pursuant to section 2151.27 of the Revised Code alleging that the child is an abused, neglected, or dependent child;

(2) The agency has temporary or permanent custody of the child;

(3) The child is living at home subject to an order for protective supervision;

(4) The child is in a planned permanent living arrangement.

Except as provided by division (A)(2) of section 5103.153 of the Revised Code, a private child placing agency providing services to a child who is the subject of a voluntary permanent custody surrender agreement entered into under division (B)(2) of section 5103.15 of the Revised Code is not required to prepare and maintain a case plan for that child.

(B) Each public children services agency shall prepare and maintain a case plan or a family service plan for any child for whom the agency is providing in-home services pursuant to an alternative response.

(C)(1) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the content and format of case plans required by division (A) of this section and establishing procedures for developing, implementing, and changing the case plans. The rules shall at a minimum comply with the requirements of Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 671 (1980), as amended.

(2) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code requiring public

children services agencies and private child placing agencies to maintain case plans for children and their families who are receiving services in their homes from the agencies and for whom case plans are not required by division (A) of this section. The rules for public children services agencies shall include the requirements for case plans or family service plans maintained for children and their families who are receiving services in their homes from public children services agencies pursuant to an alternative response. The agencies shall maintain case plans and family service plans as required by those rules; however, the case plans and family service plans shall not be subject to any other provision of this section except as specifically required by the rules.

(D) Each public children services agency and private child placing agency that is required by division (A) of this section to maintain a case plan shall file the case plan with the court prior to the child's adjudicatory hearing but no later than thirty days after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care. If the agency does not have sufficient information prior to the adjudicatory hearing to complete any part of the case plan, the agency shall specify in the case plan the additional information necessary to complete each part of the case plan and the steps that will be taken to obtain that information. All parts of the case plan shall be completed by the earlier of thirty days after the adjudicatory hearing or the date of the dispositional hearing for the child.

(E) Any agency that is required by division (A) of this section to prepare a case plan shall attempt to obtain an agreement among all parties, including, but not limited to, the parents, guardian, or custodian of the child and the guardian ad litem of the child regarding the content of the case plan. If all

parties agree to the content of the case plan and the court approves it, the court shall journalize it as part of its dispositional order. If the agency cannot obtain an agreement upon the contents of the case plan or the court does not approve it, the parties shall present evidence on the contents of the case plan at the dispositional hearing. The court, based upon the evidence presented at the dispositional hearing and the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child.

(F)(1) All parties, including the parents, guardian, or custodian of the child, are bound by the terms of the journalized case plan. A party that fails to comply with the terms of the journalized case plan may be held in contempt of court.

(2) Any party may propose a change to a substantive part of the case plan, including, but not limited to, the child's placement and the visitation rights of any party. A party proposing a change to the case plan shall file the proposed change with the court and give notice of the proposed change in writing before the end of the day after the day of filing it to all parties and the child's guardian ad litem. All parties and the guardian ad litem shall have seven days from the date the notice is sent to object to and request a hearing on the proposed change.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency may implement the proposed change after the hearing, if the court approves it. The agency shall not implement the proposed change unless it is approved by the court.

(b) If it does not receive a timely request for a hearing,

the court may approve the proposed change without a hearing. If the court approves the proposed change without a hearing, it shall journalize the case plan with the change not later than fourteen days after the change is filed with the court. If the court does not approve the proposed change to the case plan, it shall schedule a hearing to be held pursuant to section 2151.417 of the Revised Code no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child. If, despite the requirements of division (F)(2) of this section, the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than fifteen days after it is submitted to the court.

(3) If an agency has reasonable cause to believe that a child is suffering from illness or injury and is not receiving proper care and that an appropriate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm, to believe that a child is in immediate danger from the child's surroundings and that an immediate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm to the child, or to believe that a parent, guardian, custodian, or other member of the child's household has abused or neglected the child and that the child is in danger of immediate or threatened physical or emotional harm from that person unless the agency makes an appropriate change in the child's case plan, it may implement the change without prior agreement or a court hearing and, before the end of the next day after the change is made, give all parties, the guardian ad litem of the child, and the court notice of the change. Before the end of the third day after implementing the change in the case plan, the agency shall file a statement of the change with the court and give notice of the filing accompanied by a copy of the statement

to all parties and the guardian ad litem. All parties and the guardian ad litem shall have ten days from the date the notice is sent to object to and request a hearing on the change.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency shall continue to administer the case plan with the change after the hearing, if the court approves the change. If the court does not approve the change, the court shall make appropriate changes to the case plan and shall journalize the case plan.

(b) If it does not receive a timely request for a hearing, the court may approve the change without a hearing. If the court approves the change without a hearing, it shall journalize the case plan with the change within fourteen days after receipt of the change. If the court does not approve the change to the case plan, it shall schedule a hearing under section 2151.417 of the Revised Code to be held no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child.

(G)(1) All case plans for children in temporary custody shall have the following general goals:

(a) Consistent with the best interest and special needs of the child, to achieve a safe out-of-home placement in the least restrictive, most family-like setting available and in close proximity to the home from which the child was removed or the home in which the child will be permanently placed;

(b) To eliminate with all due speed the need for the

out-of-home placement so that the child can safely return home.

(2) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the general goals of case plans for children subject to dispositional orders for protective supervision, a planned permanent living arrangement, or permanent custody.

(H) In the agency's development of a case plan and the court's review of the case plan, the child's health and safety shall be the paramount concern. The agency and the court shall be guided by the following general priorities:

(1) A child who is residing with or can be placed with the child's parents within a reasonable time should remain in their legal custody even if an order of protective supervision is required for a reasonable period of time;

(2) If both parents of the child have abandoned the child, have relinquished custody of the child, have become incapable of supporting or caring for the child even with reasonable assistance, or have a detrimental effect on the health, safety, and best interest of the child, the child should be placed in the legal custody of a suitable member of the child's extended family;

(3) If a child described in division (H)(2) of this section has no suitable member of the child's extended family to accept legal custody, the child should be placed in the legal custody of a suitable nonrelative who shall be made a party to the proceedings after being given legal custody of the child;

(4) If the child has no suitable member of the child's extended family to accept legal custody of the child and no suitable nonrelative is available to accept legal custody of the child and, if the child temporarily cannot or should not be placed with the child's parents, guardian, or custodian, the child should be placed in the temporary custody of a public children services

agency or a private child placing agency;

(5) If the child cannot be placed with either of the child's parents within a reasonable period of time or should not be placed with either, if no suitable member of the child's extended family or suitable nonrelative is available to accept legal custody of the child, and if the agency has a reasonable expectation of placing the child for adoption, the child should be committed to the permanent custody of the public children services agency or private child placing agency;

(6) If the child is to be placed for adoption or foster care, the placement shall not be delayed or denied on the basis of the child's or adoptive or foster family's race, color, or national origin.

(I) The case plan for a child in temporary custody shall include at a minimum the following requirements if the child is or has been the victim of abuse or neglect or if the child witnessed the commission in the child's household of abuse or neglect against a sibling of the child, a parent of the child, or any other person in the child's household:

(1) A requirement that the child's parents, guardian, or custodian participate in mandatory counseling;

(2) A requirement that the child's parents, guardian, or custodian participate in any supportive services that are required by or provided pursuant to the child's case plan.

(J) A case plan may include, as a supplement, a plan for locating a permanent family placement. The supplement shall not be considered part of the case plan for purposes of division (E) of this section.

(K)(1) A public children services agency may request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to a

parent, guardian, custodian, prospective custodian, or prospective placement whose actions result in a finding under division (A)(1) of this section that a child is an abused, neglected, or dependent child. The public children services agency shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check.

(2) A public children services agency that requests a criminal records check under division (K)(1) of this section shall do both of the following:

(a) Provide to each parent, guardian, custodian, prospective custodian, or prospective placement for whom a criminal records check is requested a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section and obtain the completed form and impression sheet from the parent, guardian, custodian, prospective custodian, or prospective placement;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) A parent, guardian, custodian, prospective custodian, or prospective placement who is given a form and fingerprint impression sheet under division (K)(2)(a) of this section and who fails to complete the form or provide fingerprint impressions may be held in contempt of court.

Sec. 2151.86. (A)(1) The appointing or hiring officer of any entity that appoints or employs any person responsible for a child's care in out-of-home care shall request the superintendent of BCII to conduct a criminal records check with respect to any person who is under final consideration for appointment or employment as a person responsible for a child's care in

out-of-home care, except that section 3319.39 of the Revised Code shall apply instead of this section if the out-of-home care entity is a public school, educational service center, or chartered nonpublic school.

(2) At the times specified in this division, the administrative director of an agency, or attorney, who arranges an adoption for a prospective adoptive parent shall request the superintendent of BCII to conduct a criminal records check with respect to that prospective adoptive parent and a criminal records check with respect to all persons eighteen years of age or older who reside with the prospective adoptive parent. The administrative director or attorney shall request a criminal records check pursuant to this division at the time of the initial home study, every four years after the initial home study at the time of an update, and at the time that an adoptive home study is completed as a new home study.

(3) Before a recommending agency submits a recommendation to the department of job and family services on whether the department should issue a certificate to a foster home under section 5103.03 of the Revised Code, and every four years thereafter prior to a recertification under that section, the administrative director of the agency shall request that the superintendent of BCII conduct a criminal records check with respect to the prospective foster caregiver and a criminal records check with respect to all other persons eighteen years of age or older who reside with the foster caregiver.

(B)(1) If a person subject to a criminal records check under division (A)(1) of this section does not present proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent of BCII has requested

information about the person from the federal bureau of investigation in a criminal records check, the appointing or hiring officer shall request that the superintendent of BCII obtain information from the federal bureau of investigation as a part of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671. If a person subject to a criminal records check under division (A)(1) of this section presents proof that the person has been a resident of this state for that five-year period, the appointing or hiring officer or attorney may request that the superintendent of BCII include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

When the administrative director of an agency, or attorney, who arranges an adoption for a prospective parent requests, at the time of the initial home study, a criminal records check for a person pursuant to division (A)(2) of this section, the administrative director or attorney shall request that the superintendent of BCII obtain information from the federal bureau of investigation as part of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrative director of an agency, or attorney, who arranges an adoption for a prospective parent requests a criminal records check for a person pursuant to division (A)(2) of this section, the administrative director or attorney may request that the superintendent of BCII include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

When the administrative director of a recommending agency requests, before submitting a recommendation to the department of job and family services on whether the department should issue a certificate to a foster home under section 5103.03 of the Revised Code, a criminal records check for a person pursuant to division (A)(3) of this section, the administrative director shall request that the superintendent of BCII obtain information from the federal bureau of investigation as part of a criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrative director of a recommending agency requests a criminal records check for a person pursuant to division (A)(3) of this section, the administrative director may request that the superintendent of BCII include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

Prior to a hearing on a final decree of adoption or interlocutory order of adoption by a probate court, the administrative director of an agency, or an attorney, who arranges an adoption for a prospective parent shall provide to the clerk of the probate court either of the following:

(a) Any information received pursuant to a request made under this division from the superintendent of BCII or the federal bureau of investigation as part of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check;

(b) Written notification that the person subject to a criminal records check pursuant to this division failed upon request to provide the information necessary to complete the form

or failed to provide impressions of the person's fingerprints as required under division (B)(2) of this section.

(2) An appointing or hiring officer, administrative director, or attorney required by division (A) of this section to request a criminal records check shall provide to each person subject to a criminal records check a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from the person, and forward the completed form and impression sheet to the superintendent of BCII at the time the criminal records check is requested.

Any person subject to a criminal records check who receives pursuant to this division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If a person subject to a criminal records check, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the appointing or hiring officer shall not appoint or employ the person as a person responsible for a child's care in out-of-home care, a probate court may not issue a final decree of adoption or an interlocutory order of adoption making the person an adoptive parent, and the department of job and family services shall not issue a certificate authorizing the prospective foster caregiver to operate a foster home.

(C)(1) No appointing or hiring officer shall appoint or

employ a person as a person responsible for a child's care in out-of-home care, the department of job and family services shall not issue a certificate under section 5103.03 of the Revised Code authorizing a prospective foster caregiver to operate a foster home, and no probate court shall issue a final decree of adoption or an interlocutory order of adoption making a person an adoptive parent if the person or, in the case of a prospective foster caregiver or prospective adoptive parent, any person eighteen years of age or older who resides with the prospective foster caregiver or prospective adoptive parent previously has been convicted of or pleaded guilty to any of the violations described in division (A)~~(8)~~(5) of section 109.572 of the Revised Code, unless the person meets rehabilitation standards established in rules adopted under division (F) of this section.

(2) The appointing or hiring officer may appoint or employ a person as a person responsible for a child's care in out-of-home care conditionally until the criminal records check required by this section is completed and the officer receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the person subject to the criminal records check does not qualify for appointment or employment, the officer shall release the person from appointment or employment.

(3) Prior to certification or recertification under section 5103.03 of the Revised Code, the prospective foster caregiver subject to a criminal records check under division (A)(3) of this section shall notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within the five years prior to the date of application to become a foster caregiver in this state. The failure of a prospective foster caregiver to notify the recommending agency of any revocation of that type in

another state that occurred within that five-year period shall be grounds for denial of the person's foster home application or the revocation of the person's foster home certification, whichever is applicable. If a person has had a revocation in another state within the five years prior to the date of the application, the department of job and family services shall not issue a foster home certificate to the prospective foster caregiver.

(D) The appointing or hiring officer, administrative director, or attorney shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request pursuant to division (A) of this section. The officer, director, or attorney may charge the person subject to the criminal records check a fee for the costs the officer, director, or attorney incurs in obtaining the criminal records check. A fee charged under this division shall not exceed the amount of fees the officer, director, or attorney pays for the criminal records check. If a fee is charged under this division, the officer, director, or attorney shall notify the person who is the applicant at the time of the person's initial application for appointment or employment, an adoption to be arranged, or a certificate to operate a foster home of the amount of the fee and that, unless the fee is paid, the person who is the applicant will not be considered for appointment or employment or as an adoptive parent or foster caregiver.

(E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The appointing or hiring officer, administrative director, or attorney requesting the criminal records check or the officer's, director's, or attorney's representative;

(3) The department of job and family services, a county department of job and family services, or a public children services agency;

(4) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment, a final decree of adoption or interlocutory order of adoption, or a foster home certificate.

(F) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (A)~~(8)~~(5) of section 109.572 of the Revised Code must meet for an appointing or hiring officer to appoint or employ the person as a person responsible for a child's care in out-of-home care, a probate court to issue a final decree of adoption or interlocutory order of adoption making the person an adoptive parent, or the department to issue a certificate authorizing the prospective foster caregiver to operate a foster home or not revoke a foster home certificate for a violation specified in section 5103.0328 of the Revised Code.

(G) An appointing or hiring officer, administrative director, or attorney required by division (A) of this section to request a criminal records check shall inform each person who is the applicant, at the time of the person's initial application for appointment or employment, an adoption to be arranged, or a foster home certificate, that the person subject to the criminal records

check is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code.

(H) The department of job and family services may waive the requirement that a criminal records check based on fingerprints be conducted for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the recommending agency documents to the department's satisfaction that the adult resident is physically unable to comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the home. In such cases, the recommending or approving agency shall request that the bureau of criminal identification and investigation conduct a criminal records check using the person's name and social security number.

(I) As used in this section:

(1) "Children's hospital" means any of the following:

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a

children's hospital and the children's hospital meets all the requirements of division (I)(1)(a) of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Person responsible for a child's care in out-of-home care" has the same meaning as in section 2151.011 of the Revised Code, except that it does not include a prospective employee of the department of youth services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital.

(4) "Person subject to a criminal records check" means the following:

(a) A person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care;

(b) A prospective adoptive parent;

(c) A prospective foster caregiver;

(d) A person eighteen years old or older who resides with a prospective foster caregiver or a prospective adoptive parent.

(5) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency to which the department of job and family services has delegated a duty to inspect and approve foster homes.

(6) "Superintendent of BCII" means the superintendent of the bureau of criminal identification and investigation.

Sec. 2152.121. (A) If a complaint is filed against a child alleging that the child is a delinquent child and the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of the Revised Code, the juvenile court that

transferred the case shall retain jurisdiction for purposes of making disposition of the child when required under division (B) of this section.

(B) If a complaint is filed against a child alleging that the child is a delinquent child, if the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of the Revised Code, and if the child subsequently is convicted of or pleads guilty to an offense in that case, the sentence to be imposed or disposition to be made of the child shall be determined as follows:

(1) The court in which the child is convicted of or pleads guilty to the offense shall determine whether, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would have required mandatory transfer of the case or division (B) of that section would have allowed discretionary transfer of the case. The court shall not consider the factor specified in division (B)(3) of section 2152.12 of the Revised Code in making its determination under this division.

(2) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would not have required mandatory transfer of the case, and division (B) of that section would not have allowed discretionary transfer of the case, the court shall transfer jurisdiction of the case back to the juvenile court that initially transferred the case, the court and all other agencies that have any record of the conviction of the child or

the child's guilty plea shall expunge the conviction or guilty plea and all records of it, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have never occurred, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have been a delinquent child adjudication of the child, and the juvenile court shall impose one or more traditional juvenile dispositions upon the child under sections 2152.19 and 2152.20 of the Revised Code.

(3) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would not have required mandatory transfer of the case but division (B) of that section would have allowed discretionary transfer of the case, the court shall determine the sentence it believes should be imposed upon the child under Chapter 2929. of the Revised Code, shall impose that sentence upon the child, and shall stay that sentence pending completion of the procedures specified in this division. Upon imposition and staying of the sentence, the court shall transfer jurisdiction of the case back to the juvenile court that initially transferred the case and the juvenile court shall proceed in accordance with this division. In no case may the child waive a right to a hearing of the type described in division (B)(3)(b) of this section, regarding a motion filed as described in that division by the prosecuting attorney in the case. Upon transfer of jurisdiction of the case back to the juvenile court, both of the following apply:

(a) Except as otherwise provided in division (B)(3)(b) of this section, the juvenile court shall impose a serious youthful

offender dispositional sentence upon the child under division (D)(1) of section 2152.13 of the Revised Code. In imposing the adult portion of that sentence, the juvenile court shall consider and give preference to the sentence imposed upon the child by the court in which the child was convicted of or pleaded guilty to the offense. Upon imposing a serious youthful offender dispositional sentence upon the child as described in this division, the juvenile court shall notify the court in which the child was convicted of or pleaded guilty to the offense, the sentence imposed upon the child by that court shall terminate, the court and all other agencies that have any record of the conviction of the child shall expunge the conviction or guilty plea and all records of it, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have never occurred, and the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have been a delinquent child adjudication of the child.

(b) Upon the transfer, the prosecuting attorney in the case may file a motion in the juvenile court that objects to the imposition of a serious youthful offender dispositional sentence upon the child and requests that the sentence imposed upon the child by the court in which the child was convicted of or pleaded guilty to the offense be invoked. Upon the filing of a motion under this division, the juvenile court shall hold a hearing to determine whether the child is not amenable to care or rehabilitation within the juvenile system and whether the safety of the community may require that the child be subject solely to adult sanctions. If the juvenile court at the hearing finds that the child is not amenable to care or rehabilitation within the juvenile system or that the safety of the community may require that the child be subject solely to adult sanctions, the court shall grant the motion. Absent such a finding, the juvenile court

shall deny the motion. In making its decision under this division, the juvenile court shall consider the factors listed in division (D) of section 2152.12 of the Revised Code as factors indicating that the motion should be granted, shall consider the factors listed in division (E) of that section as factors indicating that the motion should not be granted, and shall consider whether the applicable factors listed in division (D) of that section outweigh the applicable factors listed in division (E) of that section.

If the juvenile court grants the motion of the prosecuting attorney under this division, the juvenile court shall transfer jurisdiction of the case back to the court in which the child was convicted of or pleaded guilty to the offense, and the sentence imposed by that court shall be invoked. If the juvenile court denies the motion of the prosecuting attorney under this section, the juvenile court shall impose a serious youthful offender dispositional sentence upon the child in accordance with division (B)(3)(a) of this section.

(4) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would have required mandatory transfer of the case, the court shall impose sentence upon the child under Chapter 2929. of the Revised Code.

Sec. 2152.22. (A) When a child is committed to the legal custody of the department of youth services under this chapter, the juvenile court relinquishes control with respect to the child so committed, except as provided in divisions (B), (C), (D), and (H) of this section or in sections 2152.82 to 2152.86 of the Revised Code. Subject to divisions (B), (C), and (D) of this

section, sections 2151.353 and 2151.412 to 2151.421 of the Revised Code, sections 2152.82 to 2152.86 of the Revised Code, and any other provision of law that specifies a different duration for a dispositional order, all other dispositional orders made by the court under this chapter shall be temporary and shall continue for a period that is designated by the court in its order, until terminated or modified by the court or until the child attains twenty-one years of age.

The department shall not release the child from a department facility and as a result shall not discharge the child or order the child's release on supervised release prior to the expiration of the minimum period specified by the court in division (A)(1) of section 2152.16 of the Revised Code and any term of commitment imposed under section 2152.17 of the Revised Code or prior to the child's attainment of twenty-one years of age, except upon the order of a court pursuant to division (B), (C), or (D) of this section or in accordance with section 5139.54 of the Revised Code.

(B)(1) ~~The~~ Unless the court grants judicial release under division (D)(1)(b) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child to court supervision under this division during the first half of the prescribed minimum term for which the child was committed to the department or, if the child was committed to the department until the child attains twenty-one years of age, during the first half of the prescribed period of commitment that begins on the first day of commitment and ends on the child's twenty-first birthday, provided any commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code has ended.

(2) If the department desires to release a child during a period specified in division (B)(1) of this section, it shall request the court that committed the child to grant a judicial

release of the child to court supervision under this division. During whichever of those periods is applicable, the child or the parents of the child also may request that court to grant a judicial release of the child to court supervision. Upon receipt of a request for a judicial release to court supervision under this division from the department, the child, or the child's parent, or upon its own motion, the court that committed the child shall do one of the following: approve the release by journal entry; schedule within thirty days after the request is received a time for a hearing on whether the child is to be released; or reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for a release under this division by the child or the child's parent, the child or the child's parent may make one additional request for a judicial release to court supervision within the applicable period. The additional request may be made no earlier than thirty days after the filing of the prior request for a judicial release to court supervision. Upon the filing of a second request for a judicial release to court supervision, the court shall either approve or disapprove the release by journal entry or schedule within thirty days after the request is received a time for a hearing on whether the child is to be released.

(3) If a court schedules a hearing under division (B)(2) of this section, it may order the department to deliver the child to the court on the date set for the hearing and may order the department to present to the court a report on the child's progress in the institution to which the child was committed and recommendations for conditions of supervision of the child by the court after release. The court may conduct the hearing without the child being present. The court shall determine at the hearing whether the child should be granted a judicial release to court supervision.

If the court approves the release under this division, it shall order its staff to prepare a written treatment and rehabilitation plan for the child that may include any conditions of the child's release that were recommended by the department and approved by the court. The committing court shall send the juvenile court of the county in which the child is placed a copy of the recommended plan. The court of the county in which the child is placed may adopt the recommended conditions set by the committing court as an order of the court and may add any additional consistent conditions it considers appropriate. If a child is granted a judicial release to court supervision, the release discharges the child from the custody of the department of youth services.

(C)(1) ~~The~~ Unless the court grants judicial release under division (D)(1)(b) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child to department of youth services supervision under this division during the second half of the prescribed minimum term for which the child was committed to the department or, if the child was committed to the department until the child attains twenty-one years of age, during the second half of the prescribed period of commitment that begins on the first day of commitment and ends on the child's twenty-first birthday, provided any commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code has ended.

(2) If the department desires to release a child during a period specified in division (C)(1) of this section, it shall request the court that committed the child to grant a judicial release to department of youth services supervision. During whichever of those periods is applicable, the child or the child's parent also may request the court that committed the child to grant a judicial release to department of youth services

supervision. Upon receipt of a request for judicial release to department of youth services supervision, the child, or the child's parent, or upon its own motion at any time during that period, the court shall do one of the following: approve the release by journal entry; schedule a time within thirty days after receipt of the request for a hearing on whether the child is to be released; or reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for release under this division by the child or the child's parent, the child or the child's parent may make one or more subsequent requests for a release within the applicable period, but may make no more than one request during each period of ninety days that the child is in a secure department facility after the filing of a prior request for early release. Upon the filing of a request for release under this division subsequent to an initial request, the court shall either approve or disapprove the release by journal entry or schedule a time within thirty days after receipt of the request for a hearing on whether the child is to be released.

(3) If a court schedules a hearing under division (C)(2) of this section, it may order the department to deliver the child to the court on the date set for the hearing and shall order the department to present to the court at that time a treatment plan for the child's post-institutional care. The court may conduct the hearing without the child being present. The court shall determine at the hearing whether the child should be granted a judicial release to department of youth services supervision.

If the court approves the judicial release to department of youth services supervision, the department shall prepare a written treatment and rehabilitation plan for the child pursuant to division (F) of this section that shall include the conditions of the child's release. It shall send the committing court and the

juvenile court of the county in which the child is placed a copy of the plan. The court of the county in which the child is placed may adopt the conditions set by the department as an order of the court and may add any additional consistent conditions it considers appropriate, provided that the court may not add any condition that decreases the level or degree of supervision specified by the department in its plan, that substantially increases the financial burden of supervision that will be experienced by the department, or that alters the placement specified by the department in its plan. If the court of the county in which the child is placed adds to the department's plan any additional conditions, it shall enter those additional conditions in its journal and shall send to the department a copy of the journal entry of the additional conditions.

If the court approves the judicial release to department of youth services supervision, the actual date on which the department shall release the child is contingent upon the department finding a suitable placement for the child. If the child is to be returned to the child's home, the department shall return the child on the date that the court schedules for the child's release or shall bear the expense of any additional time that the child remains in a department facility. If the child is unable to return to the child's home, the department shall exercise reasonable diligence in finding a suitable placement for the child, and the child shall remain in a department facility while the department finds the suitable placement.

(D)(1) Subject to division (D)(3) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child under this division at any time after the expiration of one of the following periods of time:

(a) Except as otherwise provided in division (D)(1)(b) of

this section, if the child was committed to the department for a prescribed minimum period and a maximum period not to exceed the child's attainment of twenty-one years, the court may grant judicial release of the child at any time after the expiration of the prescribed minimum term for which the child was committed to the department.

(b) If the child was committed to the department for both one or more definite periods under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code and a period of the type described in division (D)(1)(a) of this section, all of the prescribed minimum periods of commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code and the prescribed period of commitment of the type described in division (D)(1)(a) of this section shall be aggregated for purposes of this division, and the court may grant judicial release of the child at any time after the expiration of one year after the child begins serving the aggregate period of commitment.

(2) If a court grants a judicial release of a child under division (D)(1) of this section, the release shall be a judicial release to department of youth services supervision, if the release is granted during a period described in division (C)(1) of this section, and the second and third paragraphs of division (C)(3) of this section apply regarding the release. In all other cases, the release shall be a judicial release to court supervision, and the second paragraph of division (B)(3) of this section applies regarding the release.

(3) A court at the time of making the disposition of a child shall provide notice in the order of disposition that the judge is retaining jurisdiction over the child for the purpose of a possible grant of judicial release of the child under division (D)(1) of this section. The failure of a court to provide this notice does not affect the authority of the court to grant a

judicial release under that division and does not constitute grounds for setting aside the child's delinquent child adjudication or disposition or for granting any post-adjudication relief to the child.

(4) The department of youth services, a child committed to the department, or the parents of the child, during a period specified in division (D)(1) of this section, may request the court that committed the child to grant a judicial release of the child under that division. Upon receipt of a request for judicial release of a child under this division from the department, the child, or the child's parent, or upon its own motion, the court that committed the child shall do one of the following:

(a) Approve the request by journal entry;

(b) Schedule within thirty days after the request is received a time for a hearing on whether the child is to be released;

(c) Reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for a release under this division by the child or the child's parent, division (C)(2) of this section applies regarding the making of additional requests.

If the court schedules a hearing under this division to consider the judicial release, the first paragraph of division (B)(3) of this section applies regarding the hearing.

(E) If a child is released under division (B), (C), or (D) of this section and the court of the county in which the child is placed has reason to believe that the child's deportment is not in accordance with the conditions of the child's judicial release, the court of the county in which the child is placed shall schedule a time for a hearing to determine whether the child violated any of the post-release conditions, and, if the child was

released under division (C) of this section or under division (D) of this section under department supervision, divisions (A) to (E) of section 5139.52 of the Revised Code apply regarding the child.

If that court determines at the hearing that the child violated any of the post-release conditions, the court, if it determines that the violation was a serious violation, may order the child to be returned to the department for institutionalization, consistent with the original order of commitment of the child, or in any case may make any other disposition of the child authorized by law that the court considers proper. If the court of the county in which the child is placed orders the child to be returned to a department of youth services institution, the time during which the child was held in a secure department facility prior to the child's judicial release shall be considered as time served in fulfilling the prescribed period of institutionalization that is applicable to the child under the child's original order of commitment. If the court orders the child returned to a department institution, the child shall remain in institutional care for a minimum of three months or until the child successfully completes a revocation program of a duration of not less than thirty days operated either by the department or by an entity with which the department has contracted to provide a revocation program.

(F) The department of youth services, prior to the release of a child pursuant to division (C) of this section or pursuant to division (D) of this section on department supervision, shall do all of the following:

(1) After reviewing the child's rehabilitative progress history and medical and educational records, prepare a written treatment and rehabilitation plan for the child that includes conditions of the release;

(2) Completely discuss the conditions of the plan prepared

pursuant to division (F)(1) of this section and the possible penalties for violation of the plan with the child and the child's parents, guardian, or legal custodian;

(3) Have the plan prepared pursuant to division (F)(1) of this section signed by the child, the child's parents, legal guardian, or custodian, and any authority or person that is to supervise, control, and provide supportive assistance to the child at the time of the child's release pursuant to division (C) or (D) of this section;

(4) Prior to the child's release, file a copy of the treatment plan prepared pursuant to division (F)(1) of this section with the committing court and the juvenile court of the county in which the child is to be placed.

(G) The department of youth services shall file a written progress report with the committing court regarding each child released pursuant to division (C) of this section or released pursuant to division (D) of this section on judicial release to department supervision at least once every thirty days unless specifically directed otherwise by the court. The report shall indicate the treatment and rehabilitative progress of the child and the child's family, if applicable, and shall include any suggestions for altering the program, custody, living arrangements, or treatment. The department shall retain legal custody of a child so released until it discharges the child or until the custody is terminated as otherwise provided by law.

(H) When a child is committed to the legal custody of the department of youth services, the court retains jurisdiction to perform the functions specified in section 5139.51 of the Revised Code with respect to the granting of supervised release by the release authority and to perform the functions specified in section 5139.52 of the Revised Code with respect to violations of the conditions of supervised release granted by the release

authority and to the revocation of supervised release granted by the release authority.

Sec. 2301.01. There shall be a court of common pleas in each county held by one or more judges, each of whom has been admitted to practice as an attorney at law in this state and has, for a total of at least six years preceding the judge's appointment or commencement of the judge's term, engaged in the practice of law in this state or served as a judge of a court of record in any jurisdiction in the United States, or both, resides in the county, and is elected by the electors therein. ~~At least two of the years of practice or service that qualify a judge shall have been in this state.~~ Each judge shall be elected for six years at the general election immediately preceding the year in which the term, as provided in sections 2301.02 and 2301.03 of the Revised Code, commences, and the judge's successor shall be elected at the general election immediately preceding the expiration of that term.

Sec. 2301.27. (A)(1)(a) The court of common pleas may establish a county department of probation. The establishment of the department shall be entered upon the journal of the court, and the clerk of the court of common pleas shall certify a copy of the journal entry establishing the department to each elective officer and board of the county. The department shall consist of a chief probation officer and the number of other probation officers and employees, clerks, and stenographers that is fixed from time to time by the court. The court shall appoint those individuals, fix their salaries, and supervise their work.

(b) When appointing a chief probation officer, the court shall do all of the following:

(i) Publicly advertise the position on the court's web site,

including, but not limited to, the job description, qualifications for the position, and the application requirements;

(ii) Conduct a competitive hiring process that adheres to state and federal equal employment opportunity laws;

(iii) Review applicants who meet the posted qualifications and comply with the application requirements.

(c) The court shall not appoint as a probation officer any person who does not possess the training, experience, and other qualifications prescribed by the adult parole authority created by section 5149.02 of the Revised Code. Probation officers have all the powers of regular police officers and shall perform any duties that are designated by the judge or judges of the court. All positions within the department of probation shall be in the classified service of the civil service of the county.

(2) If two or more counties desire to jointly establish a probation department for those counties, the judges of the courts of common pleas of those counties may establish a probation department for those counties. If a probation department is established pursuant to division (A)(2) of this section to serve more than one county, the judges of the courts of common pleas that established the department shall designate the county treasurer of one of the counties served by the department as the treasurer to whom probation fees paid under section 2951.021 of the Revised Code are to be appropriated and transferred under division (A)(2) of section 321.44 of the Revised Code for deposit into the multicounty probation services fund established under division (B) of section 321.44 of the Revised Code.

The cost of the administration and operation of a probation department established for two or more counties shall be prorated to the respective counties on the basis of population.

(3) Probation officers shall receive, in addition to their

respective salaries, their necessary and reasonable travel and other expenses incurred in the performance of their duties. Their salaries and expenses shall be paid monthly from the county treasury in the manner provided for the payment of the compensation of other appointees of the court.

(4) ~~Probation~~ Adult probation officers shall be trained in accordance with a set of minimum standards that are established by the adult parole authority of the department of rehabilitation and correction.

(B)(1) In lieu of establishing a county department of probation under division (A) of this section and in lieu of entering into an agreement with the adult parole authority as described in division (B) of section 2301.32 of the Revised Code, the court of common pleas may request the board of county commissioners to contract with, and upon that request the board may contract with, any nonprofit, public or private agency, association, or organization for the provision of probation services and supervisory services for persons placed under community control sanctions. The contract shall specify that each individual providing the probation services and supervisory services shall possess the training, experience, and other qualifications prescribed by the adult parole authority. The individuals who provide the probation services and supervisory services shall not be included in the classified or unclassified civil service of the county.

(2) In lieu of establishing a county department of probation under division (A) of this section and in lieu of entering into an agreement with the adult parole authority as described in division (B) of section 2301.32 of the Revised Code, the courts of common pleas of two or more adjoining counties jointly may request the boards of county commissioners of those counties to contract with, and upon that request the boards of county commissioners of two or

more adjoining counties jointly may contract with, any nonprofit, public or private agency, association, or organization for the provision of probation services and supervisory services for persons placed under community control sanctions for those counties. The contract shall specify that each individual providing the probation services and supervisory services shall possess the training, experience, and other qualifications prescribed by the adult parole authority. The individuals who provide the probation services and supervisory services shall not be included in the classified or unclassified civil service of any of those counties.

(C) The chief probation officer may grant permission to a probation officer to carry firearms when required in the discharge of official duties if the probation officer has successfully completed a basic firearm training program that is approved by the executive director of the Ohio peace officer training commission. A probation officer who has been granted permission to carry a firearm in the discharge of official duties, annually shall successfully complete a firearms requalification program in accordance with section 109.801 of the Revised Code.

(D) As used in this section and sections 2301.28 to 2301.32 of the Revised Code, "community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

Sec. 2301.271. (A) The adult parole authority of the department of rehabilitation and correction shall develop minimum standards for the training of <u>adult</u> probation officers as provided by section 2301.27 of the Revised Code. The adult parole authority shall consult and collaborate with the supreme court in developing the standards.

(B) Within six months after ~~the effective date of this section~~ <u>September 30, 2011</u>, the department of rehabilitation and

correction shall make available a copy of the minimum standards to the following entities:

(1) Every municipal court, county court, and court of common pleas;

(2) Every probation department.

Sec. 2301.571. (A) A person who has been convicted of or pleaded guilty to an offense and who is confined in a community-based correctional facility or district community-based correctional facility~~, unless indigent,~~ is financially responsible for the payment of any medical expense or service requested by and provided to that person.

(B) ~~Notwithstanding any contrary provision of section 2929.38 of the Revised Code, the facility governing board of a community-based correctional facility or district community-based correctional facility shall establish a policy that requires any person who is not indigent and who is confined in the correctional facility to pay for any medical treatment or service requested by and provided to that person. The fee for the medical treatment or service shall not exceed the actual cost of the treatment or service provided.~~ No person confined in a community-based correctional facility or district community-based correctional facility shall be denied any necessary medical care because of inability to pay for medical treatment or service.

(C) ~~Any fee paid by a person under~~ Nothing in this section shall ~~be deducted from~~ cause a community-based correctional facility or district community-based correctional facility to be responsible for the payment of any medical or ~~dental costs that the person is ordered to reimburse under a financial sanction imposed pursuant to section 2929.28 of the Revised Code or to repay under a policy adopted under~~ other health care expenses incurred in connection with an offender who is serving a term in

the facility pursuant to section ~~2929.37~~ 2929.16 of the Revised Code.

Sec. 2305.01. Except as otherwise provided by this section or section 2305.03 of the Revised Code, the court of common pleas has original jurisdiction in all civil cases in which the sum or matter in dispute exceeds the exclusive original jurisdiction of county courts and appellate jurisdiction from the decisions of boards of county commissioners. The court of common pleas shall not have jurisdiction, in any tort action to which the amounts apply, to award punitive or exemplary damages that exceed the amounts set forth in section 2315.21 of the Revised Code. The court of common pleas shall not have jurisdiction in any tort action to which the limits apply to enter judgment on an award of compensatory damages for noneconomic loss in excess of the limits set forth in section 2315.18 of the Revised Code.

The court of common pleas may on its own motion transfer for trial any action in the court to any municipal court in the county having concurrent jurisdiction of the subject matter of, and the parties to, the action, if the amount sought by the plaintiff does not exceed one thousand dollars and if the judge or presiding judge of the municipal court concurs in the proposed transfer. Upon the issuance of an order of transfer, the clerk of courts shall remove to the designated municipal court the entire case file. Any untaxed portion of the common pleas deposit for court costs shall be remitted to the municipal court by the clerk of courts to be applied in accordance with section 1901.26 of the Revised Code, and the costs taxed by the municipal court shall be added to any costs taxed in the common pleas court.

The court of common pleas has jurisdiction in any action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the Revised Code if the residential premises that are the subject of

the action are located within the territorial jurisdiction of the court.

The courts of common pleas of Adams, Athens, Belmont, Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, and Washington counties have jurisdiction beyond the north or northwest shore of the Ohio river extending to the opposite shore line, between the extended boundary lines of any adjacent counties or adjacent state. Each of those courts of common pleas has concurrent jurisdiction on the Ohio river with any adjacent court of common pleas that borders on that river and with any court of Kentucky or of West Virginia that borders on the Ohio river and that has jurisdiction on the Ohio river under the law of Kentucky or the law of West Virginia, whichever is applicable, or under federal law.

Sec. 2307.89. The following apply to all tort actions for silicosis or mixed dust disease claims brought against a premises owner to recover damages or other relief for exposure to silica or mixed dust on the premises owner's property:

(A) A premises owner is not liable for any injury to any individual resulting from silica or mixed dust exposure unless that individual's alleged exposure occurred while the individual was at the premises owner's property.

(B) If exposure to silica or mixed dust is alleged to have occurred before January 1, 1972, it is presumed that a premises owner knew that this state had adopted safe levels of exposure for silica or mixed dust and that products containing silica or mixed dust were used on its property only at levels below those safe levels of exposure. To rebut this presumption, the plaintiff must prove by a preponderance of the evidence that the premises owner knew or should have known that the levels of silica or mixed dust in the immediate breathing zone of the plaintiff regularly

exceeded the threshold limit values adopted by this state and that the premises owner allowed that condition to persist.

(C)(1) A premises owner is presumed to be not liable for any injury to any invitee who was engaged to work with, install, or remove products containing silica or mixed dust on the premises owner's property if the invitee's employer held itself out as qualified to perform the work. To rebut this presumption, the plaintiff must demonstrate by a preponderance of the evidence that the premises owner had actual knowledge of the potential dangers of the products containing silica or mixed dust at the time of the alleged exposure that was superior to the knowledge of both the invitee and the invitee's employer.

(2) A premises owner that hired a contractor before January 1, 1972, to perform the type of work at the premises owner's property that the contractor was qualified to perform cannot be liable for any injury to any individual resulting from silica or mixed dust exposure caused by any of the contractor's employees or agents on the premises owner's property unless the premises owner directed the activity that resulted in the injury or gave or denied permission for the critical acts that led to the individual's injury.

(3) If exposure to silica or mixed dust is alleged to have occurred after January 1, 1972, a premises owner is not liable for any injury to any individual resulting from that exposure caused by a contractor's employee or agent on the premises owner's property unless the plaintiff establishes the premises owner's intentional violation of an established safety standard that was in effect at the time of the exposure and that the alleged violation was in the plaintiff's breathing zone and was the proximate cause of the plaintiff's medical condition.

(D) As used in this section:

(1) "Threshold limit values" means the maximum allowable concentration of silica, or other dust, set forth in regulation 247 of the "regulations for the prevention and control of diseases resulting from exposure to toxic fumes, vapors, mists, gases, and dusts in order to preserve and protect the public health," as adopted by the former public health council of the department of health on January 1, 1947, and set forth by the industrial commission of Ohio in bulletin no. 203, "specific requirements and general safety standards of the industrial commission of Ohio for work shops and factories, chapter XV, ventilation and exhausts," effective January 3, 1955.

(2) "Established safety standard" means that, for the years after 1971, the concentration of silica or mixed dust in the breathing zone of the worker does not exceed the maximum allowable exposure limits for the eight-hour time-weighted average airborne concentration as promulgated by the occupational safety and health administration (OSHA) in effect at the time of the alleged exposure.

(3) "Employee" means an individual who performs labor or provides construction services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, or a remodeling or repair contract, whether written or oral, if at least ten of the following criteria apply:

(a) The individual is required to comply with instructions from the other contracting party regarding the manner or method of performing services.

(b) The individual is required by the other contracting party to have particular training.

(c) The individual's services are integrated into the regular functioning of the other contracting party.

(d) The individual is required to perform the work

personally.

(e) The individual is hired, supervised, or paid by the other contracting party.

(f) A continuing relationship exists between the individual and the other contracting party that contemplates continuing or recurring work even if the work is not full time.

(g) The individual's hours of work are established by the other contracting party.

(h) The individual is required to devote full time to the business of the other contracting party.

(i) The individual is required to perform the work on the premises of the other contracting party.

(j) The individual is required to follow the order of work set by the other contracting party.

(k) The individual is required to make oral or written reports of progress to the other contracting party.

(l) The individual is paid for services on a regular basis, including hourly, weekly, or monthly.

(m) The individual's expenses are paid for by the other contracting party.

(n) The individual's tools and materials are furnished by the other contracting party.

(o) The individual is provided with the facilities used to perform services.

(p) The individual does not realize a profit or suffer a loss as a result of the services provided.

(q) The individual is not performing services for a number of employers at the same time.

(r) The individual does not make the same services available

to the general public.

(s) The other contracting party has a right to discharge the individual.

(t) The individual has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.

Sec. 2317.02. The following persons shall not testify in certain respects:

(A)(1) An attorney, concerning a communication made to the attorney by a client in that relation or the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client. However, if the client voluntarily testifies or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply concerning a communication between a client who has since died and the deceased client's attorney if the communication is relevant to a dispute between parties who claim through that deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased client when the deceased client executed a document that is the basis of the dispute or whether the deceased client was a victim of fraud, undue influence, or duress when the deceased client executed a document that is the basis of the dispute.

(2) An attorney, concerning a communication made to the

attorney by a client in that relationship or the attorney's advice to a client, except that if the client is an insurance company, the attorney may be compelled to testify, subject to an in camera inspection by a court, about communications made by the client to the attorney or by the attorney to the client that are related to the attorney's aiding or furthering an ongoing or future commission of bad faith by the client, if the party seeking disclosure of the communications has made a prima-facie showing of bad faith, fraud, or criminal misconduct by the client.

(B)(1) A physician or a dentist concerning a communication made to the physician or dentist by a patient in that relation or the physician's or dentist's advice to a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent;

(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised

Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that

may be taken by the court include sealing its records or deleting specific information from its records.

(e)(i) If the communication was between a patient who has since died and the deceased patient's physician or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute.

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B)(1)(a)(ii) of this section, testimony or the disclosure of the patient's medical records by a physician, dentist, or other health care provider under division (B)(1)(e)(i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

(iii) Division (B)(1)(e)(i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501.

(iv) An interested person who objects to testimony or disclosure under division (B)(1)(e)(i) of this section may seek a protective order pursuant to Civil Rule 26.

(v) A person to whom protected health information is disclosed under division (B)(1)(e)(i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the information

was requested and shall return the protected health information to the covered entity or destroy the protected health information, including all copies made, at the conclusion of the litigation or proceeding.

(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records.

(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence.

Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made.

(3)(a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician or dentist may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician or dentist by the patient in question in that relation, or the physician's or dentist's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician or dentist as provided in division (B)(1)(c) of this section, the physician or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in

question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

(4) The testimonial privilege described in division (B)(1) of this section is not waived when a communication is made by a physician to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient relation.

(5)(a) As used in divisions (B)(1) to (4) of this section, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a physician or dentist to diagnose, treat, prescribe, or act for a patient. A "communication" may include, but is not limited to, any medical or dental, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(c) As used in division (B)(5)(b) of this section:

(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private

office of a physician or dentist, whether the office is for an individual or group practice.

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; ~~an adult care~~ a residential facility~~, as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section

affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.

(2) As used in division (C) of this section:

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the

Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation

or the person's advice to a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.

(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children;

(I) A communications assistant, acting within the scope of the communication assistant's authority, when providing telecommunications relay service pursuant to section 4931.06 of the Revised Code or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding.

Nothing in this section shall limit any immunity or privilege granted under federal law or regulation.

(J)(1) A chiropractor in a civil proceeding concerning a communication made to the chiropractor by a patient in that relation or the chiropractor's advice to a patient, except as

otherwise provided in this division. The testimonial privilege established under this division does not apply, and a chiropractor may testify or may be compelled to testify, in any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(a) If the patient or the guardian or other legal representative of the patient gives express consent.

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this division

does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be

compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member.

(f) The communication or advice pertains or is related to any criminal act.

(3) As used in division (K) of this section:

(a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.

(b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network.

(c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster.

(L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional.

(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements:

(a) Is certified by the employee assistance certification

commission to engage in the employee assistance profession;

(b) Has education, training, and experience in all of the following:

(i) Providing workplace-based services designed to address employer and employee productivity issues;

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;

(iv) Selecting and evaluating available community resources;

(v) Making appropriate referrals;

(vi) Local and national employee assistance agreements;

(vii) Client confidentiality.

(3) Division (L)(1) of this section does not apply to any of the following:

(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;

(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;

(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;

(e) A civil or criminal malpractice action brought against the employee assistance professional;

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section 3721.01 of the Revised Code, and ~~adult care~~ residential facilities ~~required to be~~ licensed pursuant to ~~Chapter 5119.~~ section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, in lieu of the testimony in open court of their custodian, person who made them, or person under whose supervision they were made, may be qualified as authentic evidence if any such person endorses thereon the person's verified certification identifying such records, giving the mode and time of their preparation, and stating that they were prepared in the usual course of the business of the institution. Such records, copies, or photographs may not be qualified by certification as provided in this section unless the party intending to offer them delivers a copy of them, or of their relevant portions, to the attorney of record for each adverse party not less than five days before trial. Nothing in this section shall be construed to limit the right of any party to call the custodian, person who made such records, or person under

whose supervision they were made, as a witness.

(B) Division (A) of this section does not apply to any certified copy of the results of any test given to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in a patient's whole blood, blood serum or plasma, breath, or urine at any time relevant to a criminal offense that is submitted in a criminal action or proceeding in accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 of the Revised Code.

Sec. 2317.56. (A) As used in this section:

(1) "Medical emergency" means a condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, creates an immediate threat of serious risk to the life or physical health of the woman from the continuation of the pregnancy necessitating the immediate performance or inducement of an abortion.

(2) "Medical necessity" means a medical condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, so complicates the pregnancy that it necessitates the immediate performance or inducement of an abortion.

(3) "Probable gestational age of the embryo or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the embryo or fetus at the time that the physician informs a pregnant woman pursuant to division (B)(1)(b) of this section.

(B) Except when there is a medical emergency or medical necessity, an abortion shall be performed or induced only if all of the following conditions are satisfied:

(1) At least twenty-four hours prior to the performance or inducement of the abortion, a physician meets with the pregnant woman in person in an individual, private setting and gives her an adequate opportunity to ask questions about the abortion that will be performed or induced. At this meeting, the physician shall inform the pregnant woman, verbally or, if she is hearing impaired, by other means of communication, of all of the following:

(a) The nature and purpose of the particular abortion procedure to be used and the medical risks associated with that procedure;

(b) The probable gestational age of the embryo or fetus;

(c) The medical risks associated with the pregnant woman carrying the pregnancy to term.

The meeting need not occur at the facility where the abortion is to be performed or induced, and the physician involved in the meeting need not be affiliated with that facility or with the physician who is scheduled to perform or induce the abortion.

(2) At least twenty-four hours prior to the performance or inducement of the abortion, one or more physicians or one or more agents of one or more physicians do each of the following in person, by telephone, by certified mail, return receipt requested, or by regular mail evidenced by a certificate of mailing:

(a) Inform the pregnant woman of the name of the physician who is scheduled to perform or induce the abortion;

(b) Give the pregnant woman copies of the published materials described in division (C) of this section;

(c) Inform the pregnant woman that the materials given pursuant to division (B)(2)(b) of this section are ~~provided~~ published by the state and that they describe the embryo or fetus

and list agencies that offer alternatives to abortion. The pregnant woman may choose to examine or not to examine the materials. A physician or an agent of a physician may choose to be disassociated from the materials and may choose to comment or not comment on the materials.

(3) Prior to the performance or inducement of the abortion, the pregnant woman signs a form consenting to the abortion and certifies both of the following on that form:

(a) She has received the information and materials described in divisions (B)(1) and (2) of this section, and her questions about the abortion that will be performed or induced have been answered in a satisfactory manner.

(b) She consents to the particular abortion voluntarily, knowingly, intelligently, and without coercion by any person, and she is not under the influence of any drug of abuse or alcohol.

(4) Prior to the performance or inducement of the abortion, the physician who is scheduled to perform or induce the abortion or the physician's agent receives a copy of the pregnant woman's signed form on which she consents to the abortion and that includes the certification required by division (B)(3) of this section.

(C) The department of health shall ~~cause to be published~~ publish in English and in Spanish, in a typeface large enough to be clearly legible, and in an easily comprehensible format, the following materials on the department's web site:

(1) Materials that inform the pregnant woman about family planning information, of publicly funded agencies that are available to assist in family planning, and of public and private agencies and services that are available to assist her through the pregnancy, upon childbirth, and while the child is dependent, including, but not limited to, adoption agencies. The materials

shall be geographically indexed; include a comprehensive list of the available agencies, a description of the services offered by the agencies, and the telephone numbers and addresses of the agencies; and inform the pregnant woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care and about the support obligations of the father of a child who is born alive. The department shall ensure that the materials described in division (C)(1) of this section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this division.

(2) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the zygote, blastocyte, embryo, or fetus at two-week gestational increments for the first sixteen weeks of pregnancy and at four-week gestational increments from the seventeenth week of pregnancy to full term, including any relevant information regarding the time at which the fetus possibly would be viable. The department shall cause these materials to be published only after it consults with the Ohio state medical association and the Ohio section of the American college of obstetricians and gynecologists relative to the probable anatomical and physiological characteristics of a zygote, blastocyte, embryo, or fetus at the various gestational increments. The materials shall use language that is understandable by the average person who is not medically trained, shall be objective and nonjudgmental, and shall include only accurate scientific information about the zygote, blastocyte, embryo, or fetus at the various gestational increments. If the materials use a pictorial, photographic, or other depiction to provide information regarding the zygote, blastocyte, embryo, or fetus, the materials shall include, in a conspicuous manner, a scale or other explanation that is understandable by the average person and that can be used to determine the actual size of the zygote, blastocyte, embryo, or fetus at a particular gestational

increment as contrasted with the depicted size of the zygote, blastocyte, embryo, or fetus at that gestational increment.

(D) Upon the submission of a request to the department of health by any person, hospital, physician, or medical facility for one ~~or more copies~~ copy of the materials published in accordance with division (C) of this section, the department shall make the requested ~~number of copies~~ copy of the materials available to the person, hospital, physician, or medical facility that requested the ~~copies~~ copy.

(E) If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the conditions specified in division (B) of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency or medical necessity exists in the medical record of the pregnant woman.

(F) If the conditions specified in division (B) of this section are satisfied, consent to an abortion shall be presumed to be valid and effective.

(G) The performance or inducement of an abortion without the prior satisfaction of the conditions specified in division (B) of this section does not constitute, and shall not be construed as constituting, a violation of division (A) of section 2919.12 of the Revised Code. The failure of a physician to satisfy the conditions of division (B) of this section prior to performing or inducing an abortion upon a pregnant woman may be the basis of both of the following:

(1) A civil action for compensatory and exemplary damages as described in division (H) of this section;

(2) Disciplinary action under section 4731.22 of the Revised Code.

(H)(1) Subject to divisions (H)(2) and (3) of this section, any physician who performs or induces an abortion with actual knowledge that the conditions specified in division (B) of this section have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied is liable in compensatory and exemplary damages in a civil action to any person, or the representative of the estate of any person, who sustains injury, death, or loss to person or property as a result of the failure to satisfy those conditions. In the civil action, the court additionally may enter any injunctive or other equitable relief that it considers appropriate.

(2) The following shall be affirmative defenses in a civil action authorized by division (H)(1) of this section:

(a) The physician performed or induced the abortion under the circumstances described in division (E) of this section.

(b) The physician made a good faith effort to satisfy the conditions specified in division (B) of this section.

~~(c) The physician or an agent of the physician requested copies of the materials published in accordance with division (C) of this section from the department of health, but the physician was not able to give a pregnant woman copies of the materials pursuant to division (B)(2) of this section and to obtain a certification as described in divisions (B)(3) and (4) of this section because the department failed to make the requested number of copies available to the physician or agent in accordance with division (D) of this section.~~

(3) An employer or other principal is not liable in damages

in a civil action authorized by division (H)(1) of this section on the basis of the doctrine of respondeat superior unless either of the following applies:

(a) The employer or other principal had actual knowledge or, by the exercise of reasonable diligence, should have known that an employee or agent performed or induced an abortion with actual knowledge that the conditions specified in division (B) of this section had not been satisfied or with a heedless indifference as to whether those conditions had been satisfied.

(b) The employer or other principal negligently failed to secure the compliance of an employee or agent with division (B) of this section.

(4) Notwithstanding division (E) of section 2919.12 of the Revised Code, the civil action authorized by division (H)(1) of this section shall be the exclusive civil remedy for persons, or the representatives of estates of persons, who allegedly sustain injury, death, or loss to person or property as a result of a failure to satisfy the conditions specified in division (B) of this section.

(I) The department of job and family services shall prepare and conduct a public information program to inform women of all available governmental programs and agencies that provide services or assistance for family planning, prenatal care, child care, or alternatives to abortion.

Sec. 2329.192. (A) As used in this section:

(1) "State lien" means a lien upon real estate, including lands and tenements, indebted to the state for debt, taxes, or in any other manner recorded by a state agency in any office of the clerk of a county court or the county recorder.

(2) "State lienholder" means the department, agency, or other

division of the state in whose name a state lien has been filed or recorded.

(B) In every action seeking the judicial sale of real estate that is subject to a state lien, all of the following apply:

(1) The party seeking a judicial sale shall include the state lienholder as a party defendant and shall serve that state lienholder with a copy of the preliminary judicial report or commitment for an owner's fee policy of title insurance filed in accordance with section 2329.191 of the Revised Code.

(2) A state lienholder shall not be made a party defendant if no state lien has been recorded against the owner of the real estate for which the judicial sale is sought.

(3) The appearance of the state lienholder shall be presumed for purposes of jurisdiction, and the court shall take judicial notice that the state has a lien against the real estate.

(4) A state lienholder may, but is not required to, file an answer to the complaint or any other pleading in the action if the amount, validity, or priority of the state lien is not identified in the pleadings as disputed and shall file an answer to the complaint or any other pleading in the action if the amount, validity, or priority of the state lien is identified in the pleadings as disputed. If a state lien is not identified as disputed, unless the state files an answer or other responsive pleading, the party seeking the judicial sale is not required to serve the state lienholder with any answer or subsequent pleadings in the action for judicial sale.

(5) As part of any order confirming the sale of the real estate that is subject to any undisputed state lien or distributing the proceeds of any judicial sale of real estate, the undisputed state lien shall be protected as if the state had appeared in the action and filed an answer asserting the validity

of the state lien as recorded in the office of the clerk of the county court or the office of the county recorder.

(6) Any party asserting a dispute as to the amount, validity, or priority of the state lien or of any lien or other interest that has priority over the state lien shall serve the state lienholder and the attorney general with notice of the dispute, and the state lienholder shall be permitted to file a responsive pleading and participate in the proceedings as if the state lienholder had been served with a summons on the date the state lienholder received notice of the dispute.

(C) Upon the judicial sale of the real estate that is the subject of an action under division (B) of this section, the interest of any undisputed state lien shall transfer to the proceeds of the sale of the real estate, and the state lienholder shall be entitled to payment from the proceeds of the sale of the real estate in accordance with the state lienholder's priority as set forth in the final judicial report or commitment for an owner's fee policy of title insurance filed in accordance with section 2329.191 of the Revised Code.

Sec. 2501.02. Each judge of a court of appeals shall have been admitted to practice as an attorney at law in this state and have, for a total of six years preceding the judge's appointment or commencement of the judge's term, engaged in the practice of law in this state or served as a judge of a court of record in any jurisdiction in the United States, or both. ~~At least two of the years of practice or service that qualify a judge shall have been in this state.~~ One judge shall be chosen in each court of appeals district every two years, and shall hold office for six years, beginning on the ninth day of February next after the judge's election.

In addition to the original jurisdiction conferred by Section

3 of Article IV, Ohio Constitution, the court shall have jurisdiction upon an appeal upon questions of law to review, affirm, modify, set aside, or reverse judgments or final orders of courts of record inferior to the court of appeals within the district, including the finding, order, or judgment of a juvenile court that a child is delinquent, neglected, abused, or dependent, for prejudicial error committed by such lower court.

The court, on good cause shown, may issue writs of supersedeas in any case, and all other writs, not specially provided for or prohibited by statute, necessary to enforce the administration of justice.

Sec. 2503.01. The supreme court shall consist of a chief justice and six justices, each of whom has been admitted to practice as an attorney at law in this state and has, for a total of at least six years preceding appointment or commencement of the justice's term, engaged in the practice of law in this state or served as a judge of a court of record in any jurisdiction of the United States, or both. ~~At least two of the years of practice or service that qualify a justice shall have been in this state.~~

Sec. 2743.02. (A)(1) The state hereby waives its immunity from liability, except as provided for the office of the state fire marshal in division (G)(1) of section 9.60 and division (B) of section 3737.221 of the Revised Code and subject to division (H) of this section, and consents to be sued, and have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter and, in the case of state universities or colleges, in section 3345.40 of the Revised Code, and except as provided in division (A)(2) or (3) of this section. To the extent that the state has

previously consented to be sued, this chapter has no applicability.

Except in the case of a civil action filed by the state, filing a civil action in the court of claims results in a complete waiver of any cause of action, based on the same act or omission, ~~which~~ that the filing party has against any officer or employee, as defined in section 109.36 of the Revised Code. The waiver shall be void if the court determines that the act or omission was manifestly outside the scope of the officer's or employee's office or employment or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(2) If a claimant proves in the court of claims that an officer or employee, as defined in section 109.36 of the Revised Code, would have personal liability for the officer's or employee's acts or omissions but for the fact that the officer or employee has personal immunity under section 9.86 of the Revised Code, the state shall be held liable in the court of claims in any action that is timely filed pursuant to section 2743.16 of the Revised Code and that is based upon the acts or omissions.

(3)(a) Except as provided in division (A)(3)(b) of this section, the state is immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty, including the performance or nonperformance of a public duty that is owed by the state in relation to any action of an individual who is committed to the custody of the state.

(b) The state immunity provided in division (A)(3)(a) of this section does not apply to any action of the state under circumstances in which a special relationship can be established between the state and an injured party. A special relationship under this division is demonstrated if all of the following elements exist:

(i) An assumption by the state, by means of promises or actions, of an affirmative duty to act on behalf of the party who was allegedly injured;

(ii) Knowledge on the part of the state's agents that inaction of the state could lead to harm;

(iii) Some form of direct contact between the state's agents and the injured party;

(iv) The injured party's justifiable reliance on the state's affirmative undertaking.

(B) The state hereby waives the immunity from liability of all hospitals owned or operated by one or more political subdivisions and consents for them to be sued, and to have their liability determined, in the court of common pleas, in accordance with the same rules of law applicable to suits between private parties, subject to the limitations set forth in this chapter. This division is also applicable to hospitals owned or operated by political subdivisions ~~which~~ that have been determined by the supreme court to be subject to suit prior to July 28, 1975.

(C) Any hospital, as defined in section 2305.113 of the Revised Code, may purchase liability insurance covering its operations and activities and its agents, employees, nurses, interns, residents, staff, and members of the governing board and committees, and, whether or not such insurance is purchased, may, to ~~such~~ the extent ~~as~~ that its governing board considers appropriate, indemnify or agree to indemnify and hold harmless any such person against expense, including attorney's fees, damage, loss, or other liability arising out of, or claimed to have arisen out of, the death, disease, or injury of any person as a result of the negligence, malpractice, or other action or inaction of the indemnified person while acting within the scope of the indemnified person's duties or engaged in activities at the

request or direction, or for the benefit, of the hospital. Any hospital electing to indemnify ~~such~~ those persons, or to agree to so indemnify, shall reserve ~~such~~ any funds ~~as~~ that are necessary, in the exercise of sound and prudent actuarial judgment, to cover the potential expense, fees, damage, loss, or other liability. The superintendent of insurance may recommend, or, if ~~such~~ the hospital requests the superintendent to do so, the superintendent shall recommend, a specific amount for any period that, in the superintendent's opinion, represents such a judgment. This authority is in addition to any authorization otherwise provided or permitted by law.

(D) Recoveries against the state shall be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received by the claimant. This division does not apply to civil actions in the court of claims against a state university or college under the circumstances described in section 3345.40 of the Revised Code. The collateral benefits provisions of division (B)(2) of that section apply under those circumstances.

(E) The only defendant in original actions in the court of claims is the state. The state may file a third-party complaint or counterclaim in any civil action, except a civil action for ~~two~~ ten thousand ~~five hundred~~ dollars or less, that is filed in the court of claims.

(F) A civil action against an officer or employee, as defined in section 109.36 of the Revised Code, that alleges that the officer's or employee's conduct was manifestly outside the scope of the officer's or employee's employment or official responsibilities, or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner shall first be filed against the state in the court of claims~~,~~ ~~which~~ that has exclusive, original jurisdiction to determine, initially, whether the officer or employee is entitled to personal

immunity under section 9.86 of the Revised Code and whether the courts of common pleas have jurisdiction over the civil action. The officer or employee may participate in the immunity determination proceeding before the court of claims to determine whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

The filing of a claim against an officer or employee under this division tolls the running of the applicable statute of limitations until the court of claims determines whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

(G) ~~Whenever~~ If a claim lies against an officer or employee who is a member of the Ohio national guard, and the officer or employee was, at the time of the act or omission complained of, subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 2671, et seq., ~~then~~ the Federal Tort Claims Act is the exclusive remedy of the claimant and the state has no liability under this section.

(H) If an inmate of a state correctional institution has a claim against the state for the loss of or damage to property and the amount claimed does not exceed three hundred dollars, before commencing an action against the state in the court of claims, the inmate shall file a claim for the loss or damage under the rules adopted by the director of rehabilitation and correction pursuant to this division. The inmate shall file the claim within the time allowed for commencement of a civil action under section 2743.16 of the Revised Code. If the state admits or compromises the claim, the director shall make payment from a fund designated by the director for that purpose. If the state denies the claim or does not compromise the claim at least sixty days prior to expiration of the time allowed for commencement of a civil action based upon the loss or damage under section 2743.16 of the Revised Code, the

inmate may commence an action in the court of claims under this chapter to recover damages for the loss or damage.

The director of rehabilitation and correction shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this division.

Sec. 2743.10. (A) Civil actions against the state for ~~two~~ ten thousand ~~five hundred~~ dollars or less shall be determined administratively by the clerk of the court of claims, except that the clerk is not required to administratively determine a civil action of that nature if the civil action was commenced by a person who has been found to be a vexatious litigator under section 2323.52 of the Revised Code and who has failed to obtain leave to proceed under that section and if the clerk refused pursuant to division (D) of section 2743.09 of the Revised Code to accept for filing any pleading or paper that relates to the civil action and that was submitted for filing by that person and except that all civil actions against the state that have been removed to the court of claims shall be heard and determined by a judge of the court of claims.

(B) Civil actions covered by division (A) of this section shall be commenced by filing with the clerk on complaint forms prescribed by the supreme court. The clerk shall forward copies of the form complaint to the attorney general and the state department, board, office, commission, agency, institution, or other instrumentality whose actions or failure to act are the subject of complaint. The latter shall investigate the allegations made in the form complaint and report the results of its investigation to the clerk within sixty days of receipt of a copy of the form complaint. The clerk shall forward a copy of the report to the claimant and give the claimant an opportunity to respond to the report either in writing or by appearing before the

clerk.

(C) The clerk shall determine the civil action covered by division (A) of this section and make a report of the decision, together with findings of fact and conclusions of law, copies of which shall be mailed to the claimant and the state instrumentality. Except as otherwise provided in this division, the determination shall be based upon principles of law applicable in the court of claims, including, but not limited to, section 3345.40 of the Revised Code if a state university or college is a defendant in the court of claims.

Rules of evidence shall not be applicable in the determination. Procedures shall be governed by rules promulgated by the clerk, shall be informal, and shall be designed to accommodate persons who are not skilled in the law.

(D) Upon the motion of a party, the court of claims shall review the determination of the clerk upon the clerk's report and papers filed in the action and shall enter judgment consistent with its findings. The judgment shall not be the subject of further appeal. No civil action arising out of the same transaction or set of facts may be commenced by the claimant in the court of claims.

(E) The determination of the clerk pursuant to division (C) of this section shall be processed pursuant to section 2743.19 of the Revised Code as if it were a judgment.

Sec. 2746.01. A court of record of this state shall tax as costs or otherwise require the payment of fees for the following services rendered or as compensation for the following persons or any other of the following fees that are applicable in a particular case:

(A) Appraisers, commissioners, or arbitrators appointed to

make or procure an appraisement or valuation of any property, as provided in section 2335.02 of the Revised Code;

(B) Auctioneers appointed to conduct any public auction of goods, chattels, or lands required to be sold by an officer of the court, as provided in section 2335.021 of the Revised Code;

(C) Commissioners appointed to make partition of lands or to assign dower and appraisers of real or personal property on execution, replevin, or attachment or to fix the value of exempt property, as provided in section 2335.01 of the Revised Code;

(D) Deposit of rent with the clerk of court by a resident of a manufactured home park, as provided in section ~~3733.121~~ 4781.42 of the Revised Code, or by a tenant of residential premises, as provided in section 5321.08 of the Revised Code;

(E) Interpreters, as provided in section 2335.09 of the Revised Code;

(F) Fees in a civil action or appeal commenced by an inmate against a government entity or employee, as provided in section 2969.22 of the Revised Code;

(G) Procurement of a transcript of a judgment or proceeding or exemplification of a record in an appeal or other civil action, as provided in section 2303.21 of the Revised Code;

(H) Publication of an advertisement, notice, or proclamation required to be published by a trustee, assignee, executor, administrator, receiver, or other officer of the court or a party in a case or proceeding, as provided in section 7.13 of the Revised Code;

(I) Publication of calendars, motion dockets, legal advertisements, and notices, the fees for which are not fixed by law, as provided in section 2701.09 of the Revised Code;

(J) Sheriffs, as provided in section 311.17 of the Revised

Code;

(K) Township constables or members of the police force of a township police district or joint police district, as provided in section 509.15 of the Revised Code;

(L) Witnesses, as follows:

(1) Fees and mileage in civil cases, as provided in section 2335.06 of the Revised Code;

(2) Fees and mileage in criminal cases, as provided in section 2335.08 of the Revised Code;

(3) Fees in all cases or proceedings not specified in sections 2335.06 and 2335.08 of the Revised Code, as provided in section 2335.05 of the Revised Code;

(4) Fees of municipal police officers in state felony cases, as provided in section 2335.17 of the Revised Code;

(5) Fees in arbitration proceedings, as provided in section 2711.06 of the Revised Code.

(M) In an action to abate a nuisance or to enforce a local code relating to buildings, the expenses of operating and conserving the building, as provided in section 3767.41 of the Revised Code.

Sec. 2901.01. (A) As used in the Revised Code:

(1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

(2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious physical harm to persons" means any of the following:

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

(6) "Serious physical harm to property" means any physical harm to property that does either of the following:

(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;

(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.

(7) "Risk" means a significant possibility, as contrasted

with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(9) "Offense of violence" means any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, of division (A)(1), (2), or (3) of section 2911.12, or of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of this section.

(10)(a) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service,

telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(b) As used in division (A)(10) of this section, "trade secret" has the same meaning as in section 1333.61 of the Revised Code, and "telecommunications service" and "information service" have the same meanings as in section 2913.01 of the Revised Code.

(c) As used in divisions (A)(10) and (13) of this section, "cable television service," "computer," "computer software," "computer system," "computer network," "data," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(11) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or state highway patrol trooper;

(b) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is

conferred, within the limits of that statutory duty and authority;

(c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;

(d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(e) A person lawfully called pursuant to section 311.07 of the Revised Code to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(f) A person appointed by a mayor pursuant to section 737.01 of the Revised Code as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;

(g) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;

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

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

(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms;

(m) The senate sergeant at arms and an assistant senate sergeant at arms;

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

(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity.

(13) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:

(a) Any controlled substance, as defined in section 3719.01 of the Revised Code, or any device or paraphernalia;

(b) Any unlawful gambling device or paraphernalia;

(c) Any dangerous ordnance or obscene material.

(14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(B)(1)(a) Subject to division (B)(2) of this section, as used in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense, "person" includes all of the following:

(i) An individual, corporation, business trust, estate, trust, partnership, and association;

(ii) An unborn human who is viable.

(b) As used in any section contained in Title XXIX of the Revised Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

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

(i) "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.

(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (B)(1)(a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B)(1)(a)(ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law

to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with section 2919.12 of the Revised Code.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

(i) Her delivery of a stillborn baby;

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

(iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;

(iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

(v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity,

or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(C) As used in Title XXIX of the Revised Code:

(1) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.

(4) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the Revised Code:

(A) "Care facility" means any of the following:

(1) Any "home" as defined in section 3721.10 or 5111.20 of the Revised Code;

(2) Any "residential facility" as defined in section 5123.19 of the Revised Code;

(3) Any institution or facility operated or provided by the department of mental health or by the department of developmental disabilities pursuant to sections 5119.02 and 5123.03 of the Revised Code;

(4) Any "residential facility" as defined in section 5119.22

of the Revised Code;

(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;

(6) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others~~;~~

~~(7) Any "adult care facility" as defined in section 5119.70 of the Revised Code;~~

~~(8) Any adult foster home certified under section 5119.692 of the Revised Code~~.

(B) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical contact with the person or by the inappropriate use of a physical or chemical restraint, medication, or isolation on the person.

(C)(1) "Gross neglect" means knowingly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in physical harm or serious physical harm to the person.

(2) "Neglect" means recklessly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in serious physical harm to the person.

(D) "Inappropriate use of a physical or chemical restraint, medication, or isolation" means the use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in

quantities that preclude habilitation and treatment.

Sec. 2907.29. Every hospital of this state that offers organized emergency services shall provide that a physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife is available on call twenty-four hours each day for the examination of persons reported to any law enforcement agency to be victims of sexual offenses cognizable as violations of any provision of sections 2907.02 to 2907.06 of the Revised Code. The physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife, upon the request of any peace officer or prosecuting attorney and with the consent of the reported victim or upon the request of the reported victim, shall examine the person for the purposes of gathering physical evidence and shall complete any written documentation of the physical examination. The ~~public~~ director of health ~~council~~ shall establish procedures for gathering evidence under this section.

Each reported victim shall be informed of available venereal disease, pregnancy, medical, and psychiatric services.

Notwithstanding any other provision of law, a minor may consent to examination under this section. The consent is not subject to disaffirmance because of minority, and consent of the parent, parents, or guardian of the minor is not required for an examination under this section. However, the hospital shall give written notice to the parent, parents, or guardian of a minor that an examination under this section has taken place. The parent, parents, or guardian of a minor giving consent under this section are not liable for payment for any services provided under this section without their consent.

Sec. 2909.21. As used in sections 2909.21 to ~~2909.34~~ 2909.31

of the Revised Code:

(A) "Act of terrorism" means an act that is committed within or outside the territorial jurisdiction of this state or the United States, that constitutes a specified offense if committed in this state or constitutes an offense in any jurisdiction within or outside the territorial jurisdiction of the United States containing all of the essential elements of a specified offense, and that is intended to do one or more of the following:

(1) Intimidate or coerce a civilian population;

(2) Influence the policy of any government by intimidation or coercion;

(3) Affect the conduct of any government by the act that constitutes the offense.

(B) "Biological agent," "delivery system," "toxin," and "vector" have the same meanings as in section 2917.33 of the Revised Code.

(C) "Biological weapon" means any biological agent, toxin, vector, or delivery system or combination of any biological agent or agents, any toxin or toxins, any vector or vectors, and any delivery system or systems.

(D) "Chemical weapon" means any one or more of the following:

(1) Any toxic chemical or precursor of a toxic chemical that is listed in Schedule 1, Schedule 2, or Schedule 3 of the international "Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC)," as entered into force on April 29, 1997;

(2) A device specifically designed to cause death or other harm through the toxic properties of a toxic chemical or precursor identified in division (D)(1) of this section that would be created or released as a result of the employment of that device;

(3) Any equipment specifically designed for use directly in connection with the employment of devices identified in division (D)(2) of this section.

(E) "Radiological or nuclear weapon" means any device that is designed to create or release radiation or radioactivity at a level that is dangerous to human life or in order to cause serious physical harm to persons as a result of the radiation or radioactivity created or released.

(F) "Explosive device" has the same meaning as in section 2923.11 of the Revised Code.

(G) "Key component of a binary or multicomponent chemical system" means the precursor that plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent chemical system.

(H) ~~"Material assistance" means any of the following:~~

~~(1) Membership in an organization on the United States department of state terrorist exclusion list;~~

~~(2) Use of the person's position of prominence within any country to persuade others to support an organization on the United States department of state terrorist exclusion list;~~

~~(3) Knowingly soliciting funds or other things of value for an organization on the United States department of state terrorist exclusion list;~~

~~(4) Solicitation of any individual for membership in an organization on the United States department of state terrorist exclusion list;~~

~~(5) Commission of an act that the person knows, or reasonably should have known, affords material support or resources to an organization on the United States department of state terrorist~~

~~exclusion list;~~

~~(6) Hiring or compensating a person known by the person hiring or providing the compensation to be a member of an organization on the United States department of state terrorist exclusion list or a person known by the person hiring or providing the compensation to be engaged in planning, assisting, or carrying out an act of terrorism.~~

~~(I)~~ "Material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, financial services, communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

~~(J)~~(I) "Payment instrument" means a check, draft, money order, traveler's check, cashier's check, teller's check, or other instrument or order for the transmission or payment of money, regardless of whether the item in question is negotiable.

~~(K)~~(J) "Peace officer" and "prosecutor" have the same meanings as in section 2935.01 of the Revised Code.

~~(L)~~(K) "Precursor" means any chemical reactant that takes part at any stage in the production by whatever method of a toxic chemical, including any key component of a binary or multicomponent chemical system.

~~(M)~~(L) "Response costs" means all costs a political subdivision incurs as a result of, or in making any response to, a threat of a specified offense made as described in section 2909.23 of the Revised Code or a specified offense committed as described in section 2909.24 of the Revised Code, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services

personnel of the political subdivision and all costs so incurred by the political subdivision that relate to laboratory testing or hazardous material cleanup.

~~(N)~~(M) "Specified offense" means any of the following:

(1) A felony offense of violence, a violation of section 2909.04, 2909.081, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, or 2927.24 of the Revised Code, a felony of the first degree that is not a violation of any provision in Chapter 2925. or 3719. of the Revised Code;

(2) An attempt to commit, complicity in committing, or a conspiracy to commit an offense listed in division ~~(N)~~(M)(1) of this section.

~~(O)~~(N) "Toxic chemical" means any chemical that through its chemical action on life processes can cause death or serious physical harm to persons or animals, regardless of its origin or of its method of production and regardless of whether it is produced in facilities, in munitions, or elsewhere.

~~(P) "United States department of state terrorist exclusion list" and "terrorist exclusion list" means the list compiled by the United States secretary of state, in consultation with or upon the request of the United States attorney general, that designates terrorist organizations for immigration purposes. "United States department of state terrorist exclusion list" and "terrorist exclusion list" also mean the list of terrorist organizations the director of public safety prepares pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, that is comprised of lists of organizations officials of the United States government designate as terrorist, including the "terrorist exclusion list" described in this division, the list of "foreign terrorist organizations" the Unites States secretary of state prepares in consultation with the United States attorney general~~

~~and the United States secretary of the treasury, and the list of charities that support terrorist activities, known as "designated charities," that the United States department of treasury compiles.~~

~~(Q)~~(O) "Hazardous radioactive substance" means any substance or item that releases or is designed to release radiation or radioactivity at a level dangerous to human life.

Sec. 2909.28. (A) No person, with the intent to manufacture a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device, shall knowingly assemble or possess one or more toxins, toxic chemicals, precursors of toxic chemicals, vectors, biological agents, or hazardous radioactive substances~~, including, but not limited to, those listed in rules the director of public safety adopts,~~ that may be used to manufacture a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device.

(B) In a prosecution under this section, it is not necessary to allege or prove that the offender assembled or possessed all chemicals or substances necessary to manufacture a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device. The assembly or possession of a single chemical or substance, with the intent to use that chemical or substance in the manufacture of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device, is sufficient to violate this section.

(C) Whoever violates this section is guilty of illegal assembly or possession of chemicals or substances for the manufacture of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device, which is a felony of the fourth degree.

(D) This section does not apply when the items described in

division (A) of this section are assembled or possessed for a purpose related to the performance of official duties related to any military purpose of the United States and any law enforcement purpose, including any domestic riot control purpose.

Sec. 2927.023. (A) As used in this section ~~"authorized~~:

(1) "Authorized recipient of tobacco products" means a person who is:

~~(1)~~(a) Licensed as a cigarette wholesale dealer under section 5743.15 of the Revised Code;

~~(2)~~(b) Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;

~~(3)~~(c) An export warehouse proprietor as defined in section 5702 of the Internal Revenue Code;

~~(4)~~(d) An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;

~~(5)~~(e) An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;

~~(6)~~(f) A department, agency, instrumentality, or political subdivision of the federal government or of this state;

~~(7)~~(g) A person having a consent for consumer shipment issued by the tax commissioner under section 5743.71 of the Revised Code.

(2) "Motor carrier" has the same meaning as in section 4923.01 of the Revised Code.

The purpose of this section is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in section 1346.01 of the Revised Code.

(B)(1) No person shall cause to be shipped any cigarettes to

any person in this state other than an authorized recipient of tobacco products.

(2) No ~~common carrier, contract~~ motor carrier, or other person shall knowingly transport cigarettes to any person in this state that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the ~~common carrier, contract~~ motor carrier, or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.

(C) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this state in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."

(D) A court shall impose a fine of up to one thousand dollars for each violation of division (B)(1), (B)(2), or (C) of this section.

Sec. 2929.01. As used in this chapter:

(A)(1) "Alternative residential facility" means, subject to division (A)(2) of this section, any facility other than an offender's home or residence in which an offender is assigned to live and that satisfies all of the following criteria:

(a) It provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation.

(b) It has received the appropriate license or certificate for any specialized education, training, treatment, habilitation, or other service that it provides from the government agency that

is responsible for licensing or certifying that type of education, training, treatment, habilitation, or service.

(2) "Alternative residential facility" does not include a community-based correctional facility, jail, halfway house, or prison.

(B) "Basic probation supervision" means a requirement that the offender maintain contact with a person appointed to supervise the offender in accordance with sanctions imposed by the court or imposed by the parole board pursuant to section 2967.28 of the Revised Code. "Basic probation supervision" includes basic parole supervision and basic post-release control supervision.

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have the same meanings as in section 2925.01 of the Revised Code.

(D) "Community-based correctional facility" means a community-based correctional facility and program or district community-based correctional facility and program developed pursuant to sections 2301.51 to 2301.58 of the Revised Code.

(E) "Community control sanction" means a sanction that is not a prison term and that is described in section 2929.15, 2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction that is not a jail term and that is described in section 2929.26, 2929.27, or 2929.28 of the Revised Code. "Community control sanction" includes probation if the sentence involved was imposed for a felony that was committed prior to July 1, 1996, or if the sentence involved was imposed for a misdemeanor that was committed prior to January 1, 2004.

(F) "Controlled substance," "marihuana," "schedule I," and "schedule II" have the same meanings as in section 3719.01 of the Revised Code.

(G) "Curfew" means a requirement that an offender during a specified period of time be at a designated place.

(H) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center.

(I) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(J) "Drug and alcohol use monitoring" means a program under which an offender agrees to submit to random chemical analysis of the offender's blood, breath, or urine to determine whether the offender has ingested any alcohol or other drugs.

(K) "Drug treatment program" means any program under which a person undergoes assessment and treatment designed to reduce or completely eliminate the person's physical or emotional reliance upon alcohol, another drug, or alcohol and another drug and under which the person may be required to receive assessment and treatment on an outpatient basis or may be required to reside at a facility other than the person's home or residence while undergoing assessment and treatment.

(L) "Economic loss" means any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense and includes any loss of income due to lost time at work because of any injury caused to the victim, and any property loss, medical cost, or funeral expense incurred as a result of the commission of the offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

(M) "Education or training" includes study at, or in conjunction with a program offered by, a university, college, or technical college or vocational study and also includes the completion of primary school, secondary school, and literacy curricula or their equivalent.

(N) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(O) "Halfway house" means a facility licensed by the division of parole and community services of the department of rehabilitation and correction pursuant to section 2967.14 of the Revised Code as a suitable facility for the care and treatment of adult offenders.

(P) "House arrest" means a period of confinement of an offender that is in the offender's home or in other premises specified by the sentencing court or by the parole board pursuant to section 2967.28 of the Revised Code and during which all of the following apply:

(1) The offender is required to remain in the offender's home or other specified premises for the specified period of confinement, except for periods of time during which the offender is at the offender's place of employment or at other premises as authorized by the sentencing court or by the parole board.

(2) The offender is required to report periodically to a person designated by the court or parole board.

(3) The offender is subject to any other restrictions and requirements that may be imposed by the sentencing court or by the parole board.

(Q) "Intensive probation supervision" means a requirement that an offender maintain frequent contact with a person appointed by the court, or by the parole board pursuant to section 2967.28 of the Revised Code, to supervise the offender while the offender is seeking or maintaining necessary employment and participating in training, education, and treatment programs as required in the court's or parole board's order. "Intensive probation supervision" includes intensive parole supervision and intensive post-release control supervision.

(R) "Jail" means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or a combination of political subdivisions of this state.

(S) "Jail term" means the term in a jail that a sentencing court imposes or is authorized to impose pursuant to section 2929.24 or 2929.25 of the Revised Code or pursuant to any other provision of the Revised Code that authorizes a term in a jail for a misdemeanor conviction.

(T) "Mandatory jail term" means the term in a jail that a sentencing court is required to impose pursuant to division (G) of section 1547.99 of the Revised Code, division (E) of section 2903.06 or division (D) of section 2903.08 of the Revised Code, division (E) or (G) of section 2929.24 of the Revised Code, division (B) of section 4510.14 of the Revised Code, or division (G) of section 4511.19 of the Revised Code or pursuant to any other provision of the Revised Code that requires a term in a jail for a misdemeanor conviction.

(U) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(V) "License violation report" means a report that is made by a sentencing court, or by the parole board pursuant to section 2967.28 of the Revised Code, to the regulatory or licensing board or agency that issued an offender a professional license or a license or permit to do business in this state and that specifies that the offender has been convicted of or pleaded guilty to an offense that may violate the conditions under which the offender's professional license or license or permit to do business in this state was granted or an offense for which the offender's professional license or license or permit to do business in this state may be revoked or suspended.

(W) "Major drug offender" means an offender who is convicted of or pleads guilty to the possession of, sale of, or offer to sell any drug, compound, mixture, preparation, or substance that consists of or contains at least one thousand grams of hashish; at least one hundred grams of cocaine; at least two thousand five hundred unit doses or two hundred fifty grams of heroin; at least five thousand unit doses of L.S.D. or five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form; or at least one hundred times the amount of any other schedule I or II controlled substance other than marihuana that is necessary to commit a felony of the third degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code that is based on the possession of, sale of, or offer to sell the controlled substance.

(X) "Mandatory prison term" means any of the following:

(1) Subject to division (X)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to (8) or (F)(12) to (18) of section 2929.13 and division (B) of section 2929.14 of the Revised Code. Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, and 2925.11 of the Revised Code, unless the maximum or another specific term is required under section 2929.14 or 2929.142 of the Revised Code, a mandatory prison term described in this division may be any prison term authorized for the level of offense.

(2) The term of sixty or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OVI offense pursuant to division (G)(2) of section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 of the Revised Code or the term of one, two, three, four, or five years in prison that a sentencing court is required to impose pursuant to division (G)(2) of section 2929.13 of the Revised Code.

(3) The term in prison imposed pursuant to division (A) of section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(11) of section 2929.13 of the Revised Code or pursuant to division (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code.

(Y) "Monitored time" means a period of time during which an offender continues to be under the control of the sentencing court or parole board, subject to no conditions other than leading a law-abiding life.

(Z) "Offender" means a person who, in this state, is convicted of or pleads guilty to a felony or a misdemeanor.

(AA) "Prison" means a residential facility used for the confinement of convicted felony offenders that is under the control of the department of rehabilitation and correction but does not include a violation sanction center operated under authority of section 2967.141 of the Revised Code.

(BB) "Prison term" includes either of the following sanctions for an offender:

(1) A stated prison term;

(2) A term in a prison shortened by, or with the approval of, the sentencing court pursuant to section 2929.143, 2929.20, 2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code.

(CC) "Repeat violent offender" means a person about whom both of the following apply:

(1) The person is being sentenced for committing or for complicity in committing any of the following:

(a) Aggravated murder, murder, any felony of the first or second degree that is an offense of violence, or an attempt to

commit any of these offenses if the attempt is a felony of the first or second degree;

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense described in division (CC)(1)(a) of this section.

(2) The person previously was convicted of or pleaded guilty to an offense described in division (CC)(1)(a) or (b) of this section.

(DD) "Sanction" means any penalty imposed upon an offender who is convicted of or pleads guilty to an offense, as punishment for the offense. "Sanction" includes any sanction imposed pursuant to any provision of sections 2929.14 to 2929.18 or 2929.24 to 2929.28 of the Revised Code.

(EE) "Sentence" means the sanction or combination of sanctions imposed by the sentencing court on an offender who is convicted of or pleads guilty to an offense.

(FF) "Stated prison term" means the prison term, mandatory prison term, or combination of all prison terms and mandatory prison terms imposed by the sentencing court pursuant to section 2929.14, 2929.142, or 2971.03 of the Revised Code or under section 2919.25 of the Revised Code. "Stated prison term" includes any credit received by the offender for time spent in jail awaiting trial, sentencing, or transfer to prison for the offense and any time spent under house arrest or house arrest with electronic monitoring imposed after earning credits pursuant to section 2967.193 of the Revised Code. <u>If an offender is serving a prison term as a risk reduction sentence under sections 2929.143 and 5120.036 of the Revised Code, "stated prison term" includes any period of time by which the prison term imposed upon the offender is shortened by the offender's successful completion of all</u>

assessment and treatment or programming pursuant to those sections.

(GG) "Victim-offender mediation" means a reconciliation or mediation program that involves an offender and the victim of the offense committed by the offender and that includes a meeting in which the offender and the victim may discuss the offense, discuss restitution, and consider other sanctions for the offense.

(HH) "Fourth degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the fourth degree.

(II) "Mandatory term of local incarceration" means the term of sixty or one hundred twenty days in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility that a sentencing court may impose upon a person who is convicted of or pleads guilty to a fourth degree felony OVI offense pursuant to division (G)(1) of section 2929.13 of the Revised Code and division (G)(1)(d) or (e) of section 4511.19 of the Revised Code.

(JJ) "Designated homicide, assault, or kidnapping offense," "violent sex offense," "sexual motivation specification," "sexually violent offense," "sexually violent predator," and "sexually violent predator specification" have the same meanings as in section 2971.01 of the Revised Code.

(KK) "Sexually oriented offense," "child-victim oriented offense," and "tier III sex offender/child-victim offender~~,~~" have the same meanings as in section 2950.01 of the Revised Code.

(LL) An offense is "committed in the vicinity of a child" if the offender commits the offense within thirty feet of or within the same residential unit as a child who is under eighteen years of age, regardless of whether the offender knows the age of the child or whether the offender knows the offense is being committed

within thirty feet of or within the same residential unit as the child and regardless of whether the child actually views the commission of the offense.

(MM) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(NN) "Motor vehicle" and "manufactured home" have the same meanings as in section 4501.01 of the Revised Code.

(OO) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code.

(PP) "Third degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the third degree.

(QQ) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code.

(RR) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code.

(SS) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code.

(TT) "Electronic monitoring" means monitoring through the use of an electronic monitoring device.

(UU) "Electronic monitoring device" means any of the following:

(1) Any device that can be operated by electrical or battery power and that conforms with all of the following:

(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (UU)(1)(b) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the department of

rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with, that can transmit continuously and periodically a signal to that receiver when the person is within a specified distance from the receiver, and that can transmit an appropriate signal to that receiver if the person to whom it is attached travels a specified distance from that receiver.

(b) The device has a receiver that can receive continuously the signals transmitted by a transmitter of the type described in division (UU)(1)(a) of this section, can transmit continuously those signals by a wireless or landline telephone connection to a central monitoring computer of the type described in division (UU)(1)(c) of this section, and can transmit continuously an appropriate signal to that central monitoring computer if the device has been turned off or altered without prior court approval or otherwise tampered with. The device is designed specifically for use in electronic monitoring, is not a converted wireless phone or another tracking device that is clearly not designed for electronic monitoring, and provides a means of text-based or voice communication with the person.

(c) The device has a central monitoring computer that can receive continuously the signals transmitted by a wireless or landline telephone connection by a receiver of the type described in division (UU)(1)(b) of this section and can monitor continuously the person to whom an electronic monitoring device of the type described in division (UU)(1)(a) of this section is attached.

(2) Any device that is not a device of the type described in division (UU)(1) of this section and that conforms with all of the following:

(a) The device includes a transmitter and receiver that can monitor and determine the location of a subject person at any

time, or at a designated point in time, through the use of a central monitoring computer or through other electronic means.

(b) The device includes a transmitter and receiver that can determine at any time, or at a designated point in time, through the use of a central monitoring computer or other electronic means the fact that the transmitter is turned off or altered in any manner without prior approval of the court in relation to the electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with.

(3) Any type of technology that can adequately track or determine the location of a subject person at any time and that is approved by the director of rehabilitation and correction, including, but not limited to, any satellite technology, voice tracking system, or retinal scanning system that is so approved.

(VV) "Non-economic loss" means nonpecuniary harm suffered by a victim of an offense as a result of or related to the commission of the offense, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education; mental anguish; and any other intangible loss.

(WW) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(XX) "Continuous alcohol monitoring" means the ability to automatically test and periodically transmit alcohol consumption levels and tamper attempts at least every hour, regardless of the location of the person who is being monitored.

(YY) A person is "adjudicated a sexually violent predator" if the person is convicted of or pleads guilty to a violent sex

offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that violent sex offense or if the person is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that designated homicide, assault, or kidnapping offense.

(ZZ) An offense is "committed in proximity to a school" if the offender commits the offense in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises.

(AAA) "Human trafficking" means a scheme or plan to which all of the following apply:

(1) Its object is to subject a victim or victims to involuntary servitude, as defined in section 2905.31 of the Revised Code, to compel a victim or victims to engage in sexual activity for hire, to engage in a performance that is obscene, sexually oriented, or nudity oriented, or to be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.

(2) It involves at least two felony offenses, whether or not there has been a prior conviction for any of the felony offenses, to which all of the following apply:

(a) Each of the felony offenses is a violation of section 2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, division

(A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code or is a violation of a law of any state other than this state that is substantially similar to any of the sections or divisions of the Revised Code identified in this division.

(b) At least one of the felony offenses was committed in this state.

(c) The felony offenses are related to the same scheme or plan and are not isolated instances.

(BBB) "Material," "nudity," "obscene," "performance," and "sexual activity" have the same meanings as in section 2907.01 of the Revised Code.

(CCC) "Material that is obscene, sexually oriented, or nudity oriented" means any material that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity.

(DDD) "Performance that is obscene, sexually oriented, or nudity oriented" means any performance that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity.

Sec. 2929.19. (A) The court shall hold a sentencing hearing before imposing a sentence under this chapter upon an offender who was convicted of or pleaded guilty to a felony and before resentencing an offender who was convicted of or pleaded guilty to a felony and whose case was remanded pursuant to section 2953.07 or 2953.08 of the Revised Code. At the hearing, the offender, the prosecuting attorney, the victim or the victim's representative in accordance with section 2930.14 of the Revised Code, and, with the approval of the court, any other person may present information

relevant to the imposition of sentence in the case. The court shall inform the offender of the verdict of the jury or finding of the court and ask the offender whether the offender has anything to say as to why sentence should not be imposed upon the offender.

(B)(1) At the sentencing hearing, the court, before imposing sentence, shall consider the record, any information presented at the hearing by any person pursuant to division (A) of this section, and, if one was prepared, the presentence investigation report made pursuant to section 2951.03 of the Revised Code or Criminal Rule 32.2, and any victim impact statement made pursuant to section 2947.051 of the Revised Code.

(2) Subject to division (B)(3) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following:

(a) Impose a stated prison term and, if the court imposes a mandatory prison term, notify the offender that the prison term is a mandatory prison term;

(b) In addition to any other information, include in the sentencing entry the name and section reference to the offense or offenses, the sentence or sentences imposed and whether the sentence or sentences contain mandatory prison terms, if sentences are imposed for multiple counts whether the sentences are to be served concurrently or consecutively, and the name and section reference of any specification or specifications for which sentence is imposed and the sentence or sentences imposed for the specification or specifications;

(c) Notify the offender that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the first degree or second degree, for a felony sex offense, or

for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person. This division applies with respect to all prison terms imposed for an offense of a type described in this division, including a term imposed for any such offense that is a risk reduction sentence, as defined in section 2967.28 of the Revised Code. If a court imposes a sentence including a prison term of a type described in division (B)(2)(c) of this section on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(2)(c) of this section that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in division (B)(2)(c) of this section and failed to notify the offender pursuant to division (B)(2)(c) of this section regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence a statement regarding post-release control.

(d) Notify the offender that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the third, fourth, or fifth degree that is not subject to division (B)(2)(c) of this section. This division applies with respect to all prison terms imposed for an offense of a type described in this division, including a term imposed for any such offense that is a risk reduction sentence, as defined in section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a

prison term of a type described in division (B)(2)(d) of this section and failed to notify the offender pursuant to division (B)(2)(d) of this section regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence a statement regarding post-release control.

(e) Notify the offender that, if a period of supervision is imposed following the offender's release from prison, as described in division (B)(2)(c) or (d) of this section, and if the offender violates that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code, the parole board may impose a prison term, as part of the sentence, of up to one-half of the stated prison term originally imposed upon the offender. If a court imposes a sentence including a prison term on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(2)(e) of this section that the parole board may impose a prison term as described in division (B)(2)(e) of this section for a violation of that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the authority of the parole board to so impose a prison term for a violation of that nature if, pursuant to division (D)(1) of section 2967.28 of the Revised Code, the parole board notifies the offender prior to the offender's release of the board's authority to so impose a prison term. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term and failed to notify the offender pursuant to division (B)(2)(e) of this section regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control.

(f) Require that the offender not ingest or be injected with

a drug of abuse and submit to random drug testing as provided in section 341.26, 753.33, or 5120.63 of the Revised Code, whichever is applicable to the offender who is serving a prison term, and require that the results of the drug test administered under any of those sections indicate that the offender did not ingest or was not injected with a drug of abuse.

(g) Include in the offender's sentence a statement notifying the offender of the information described in division (F)(3) of section 2929.14 of the Revised Code regarding earned credits under section 2967.193 of the Revised Code.

(h)(i) Determine, notify the offender of, and include in the sentencing entry the number of days that the offender has been confined for any reason arising out of the offense for which the offender is being sentenced and by which the department of rehabilitation and correction must reduce the stated prison term under section 2967.191 of the Revised Code. The court's calculation shall not include the number of days, if any, that the offender previously served in the custody of the department of rehabilitation and correction arising out of the offense for which the prisoner was convicted and sentenced.

(ii) In making a determination under division (B)(2)(h)(i) of this section, the court shall consider the arguments of the parties and conduct a hearing if one is requested.

(iii) The sentencing court retains continuing jurisdiction to correct any error not previously raised at sentencing in making a determination under division (B)(2)(h)(i) of this section. The offender may, at any time after sentencing, file a motion in the sentencing court to correct any error made in making a determination under division (B)(2)(h)(i) of this section, and the court may in its discretion grant or deny that motion. If the court changes the number of days in its determination or redetermination, the court shall cause the entry granting that

change to be delivered to the department of rehabilitation and correction without delay. Sections 2931.15 and 2953.21 of the Revised Code do not apply to a motion made under this section.

(iv) An inaccurate determination under division (B)(2)(h)(i) of this section is not grounds for setting aside the offender's conviction or sentence and does not otherwise render the sentence void or voidable.

(3)(a) The court shall include in the offender's sentence a statement that the offender is a tier III sex offender/child-victim offender, and the court shall comply with the requirements of section 2950.03 of the Revised Code if any of the following apply:

(i) The offender is being sentenced for a violent sex offense or designated homicide, assault, or kidnapping offense that the offender committed on or after January 1, 1997, and the offender is adjudicated a sexually violent predator in relation to that offense.

(ii) The offender is being sentenced for a sexually oriented offense that the offender committed on or after January 1, 1997, and the offender is a tier III sex offender/child-victim offender relative to that offense.

(iii) The offender is being sentenced on or after July 31, 2003, for a child-victim oriented offense, and the offender is a tier III sex offender/child-victim offender relative to that offense.

(iv) The offender is being sentenced under section 2971.03 of the Revised Code for a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007.

(v) The offender is sentenced to a term of life without parole under division (B) of section 2907.02 of the Revised Code.

(vi) The offender is being sentenced for attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(vii) The offender is being sentenced under division (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code for an offense described in those divisions committed on or after January 1, 2008.

(b) Additionally, if any criterion set forth in divisions (B)(3)(a)(i) to (vii) of this section is satisfied, in the circumstances described in division (E) of section 2929.14 of the Revised Code, the court shall impose sentence on the offender as described in that division.

(4) If the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community control sanction. The court shall notify the offender that, if the conditions of the sanction are violated, if the offender commits a violation of any law, or if the offender leaves this state without the permission of the court or the offender's probation officer, the court may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the specific prison term that may be imposed as a sanction for the violation, as selected by the court from the range of prison terms for the offense pursuant to section 2929.14 of the Revised Code.

(5) Before imposing a financial sanction under section 2929.18 of the Revised Code or a fine under section 2929.32 of the Revised Code, the court shall consider the offender's present and future ability to pay the amount of the sanction or fine.

(6) If the sentencing court sentences the offender to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a local detention facility, as defined in section 2929.36 of the Revised Code, and if the local detention facility is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(a) The court shall specify both of the following as part of the sentence:

(i) If the offender is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the offender is required to pay the bill in accordance with that section.

(ii) If the offender does not dispute the bill described in division (B)(6)(a)(i) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the offender as described in that section.

(b) The sentence automatically includes any certificate of judgment issued as described in division (B)(6)(a)(ii) of this section.

(7) The failure of the court to notify the offender that a prison term is a mandatory prison term pursuant to division (B)(2)(a) of this section or to include in the sentencing entry any information required by division (B)(2)(b) of this section does not affect the validity of the imposed sentence or sentences. If the sentencing court notifies the offender at the sentencing hearing that a prison term is mandatory but the sentencing entry does not specify that the prison term is mandatory, the court may

complete a corrected journal entry and send copies of the corrected entry to the offender and the department of rehabilitation and correction, or, at the request of the state, the court shall complete a corrected journal entry and send copies of the corrected entry to the offender and department of rehabilitation and correction.

(C)(1) If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local incarceration in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose additional sanctions as specified in sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code. The court shall not impose a prison term on the offender except that the court may impose a prison term upon the offender as provided in division (A)(1) of section 2929.13 of the Revised Code.

(2) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court shall impose the mandatory prison term in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose an additional prison term as specified in section 2929.14 of the Revised Code. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may impose a community control sanction on the offender, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(D) The sentencing court, pursuant to division (I)(1) of section 2929.14 of the Revised Code, may recommend placement of the offender in a program of shock incarceration under section

5120.031 of the Revised Code or an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program or prison of that nature, or make no recommendation. If the court recommends or disapproves placement, it shall make a finding that gives its reasons for its recommendation or disapproval.

Sec. 2935.01. As used in this chapter:

(A) "Magistrate" has the same meaning as in section 2931.01 of the Revised Code.

(B) "Peace officer" includes, except as provided in section 2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed under section 3345.04 of the Revised Code; enforcement agent of the department of public safety designated under section 5502.14 of the Revised Code; employee of the department of taxation to whom investigation powers have been delegated under section 5743.45 of the Revised Code; employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer

designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code; individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code; veterans' home police officer appointed under section 5907.02 of the Revised Code; special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; police constable of any township; police officer of a township or joint police district; a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended; the house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code; ~~and~~ an assistant house of representatives sergeant at arms; the senate sergeant at arms; an assistant senate sergeant at arms; officer or employee of the bureau of criminal identification and investigation established pursuant to section 109.51 of the Revised Code who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the officer's or employee's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program and who is providing assistance upon request to a law enforcement officer or emergency assistance to a peace officer pursuant to section 109.54 or 109.541 of the Revised Code; a state fire marshal law enforcement officer described in division (A)(23)

of section 109.71 of the Revised Code; and, for the purpose of arrests within those areas, for the purposes of Chapter 5503. of the Revised Code, and the filing of and service of process relating to those offenses witnessed or investigated by them, the superintendent and troopers of the state highway patrol.

(C) "Prosecutor" includes the county prosecuting attorney and any assistant prosecutor designated to assist the county prosecuting attorney, and, in the case of courts inferior to courts of common pleas, includes the village solicitor, city director of law, or similar chief legal officer of a municipal corporation, any such officer's assistants, or any attorney designated by the prosecuting attorney of the county to appear for the prosecution of a given case.

(D) "Offense," except where the context specifically indicates otherwise, includes felonies, misdemeanors, and violations of ordinances of municipal corporations and other public bodies authorized by law to adopt penal regulations.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, police officer of a township or joint police district, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, veterans' home police officer appointed under section 5907.02 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, or a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined

in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended, shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's, state fire marshal law enforcement officer's, or individual's territorial jurisdiction, a law of this state.

(3) The house sergeant at arms, if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction

specified in division (D)(1)(a) of section 101.311 of the Revised Code or while providing security pursuant to division (D)(1)(f) of section 101.311 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(4) The senate sergeant at arms and an assistant senate sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (B) of section 101.312 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is

appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under section 5119.51 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for

transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division

(B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic

violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e)(i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the filing of

charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this

section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to Chapter 2981. of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, section 2981.12 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division

(B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A)(1), (2), (3), (4), or (5) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A) of this section, township constable, police officer of a township or joint police district, state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, individual designated to perform law enforcement duties

under section 511.232, 1545.13, or 6101.75 of the Revised Code, the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, or an assistant house sergeant at arms is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent

municipal ordinance, or any offense for which points are chargeable pursuant to section 4510.036 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint police district created under section 505.482 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint police district, in the case of a member of a township police district or joint police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships and municipal corporations that created the joint police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the

township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer or state fire marshal law enforcement officer.

(F)(1) A department of mental health special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health special police officer or a

department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of mental health special police officer or a department of developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code committing a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a violation of section 2921.34 of the Revised Code has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of mental health or the department of developmental disabilities and if a department of mental health special police officer or a department of developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that

violation of section 2921.34 of the Revised Code, until a warrant can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after the offense is committed;

(ii) The pursuit is initiated within the premises of the institution from which the violation of section 2921.34 of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the premises of the institution in violation of section 2921.34 of the Revised Code constitutes reasonable ground to believe that the violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under section 5119.14 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(2) A "department of developmental disabilities special police officer" means a special police officer of the department of developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic

training program.

(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

(8) "Portion of any street or highway" means all lanes of the street or highway irrespective of direction of travel, including designated turn lanes, and any berm, median, or shoulder.

Sec. 2945.371. (A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the defendant's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.

(B) If the court orders more than one evaluation under

division (A) of this section, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations. If a defendant enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defendant, the court shall inform the defendant that the defendant may have independent expert evaluation and that, if the defendant is unable to obtain independent expert evaluation, it will be obtained for the defendant at public expense if the defendant is indigent.

(C) If the court orders an evaluation under division (A) of this section, the defendant shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order a defendant who has been released on bail or recognizance to submit to an evaluation under this section. If a defendant who has been released on bail or recognizance refuses to submit to a complete evaluation, the court may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a center, program, or facility operated or certified by the department of mental health or the department of developmental disabilities where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days.

(D) A defendant who has not been released on bail or recognizance may be evaluated at the defendant's place of detention. Upon the request of the examiner, the court may order the sheriff to transport the defendant to a program or facility operated or certified by the department of mental health or the department of developmental disabilities, where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the defendant to the place of detention after the evaluation. A municipal court may make an

order under this division only upon the request of a certified forensic center examiner.

(E) If a court orders the evaluation to determine a defendant's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the defendant is charged.

(F) In conducting an evaluation of a defendant's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the defendant suffered, at the time of the commission of the offense, from the "battered woman syndrome."

(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the following:

(1) The examiner's findings;

(2) The facts in reasonable detail on which the findings are based;

(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable:

(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense;

(b) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the

defendant's defense, whether the defendant presently is mentally ill or mentally retarded and, if the examiner's opinion is that the defendant presently is mentally retarded, whether the defendant appears to be a mentally retarded person subject to institutionalization by court order;

(c) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the examiner's opinion as to the likelihood of the defendant becoming capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense within one year if the defendant is provided with a course of treatment;

(d) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant presently is mentally ill or mentally retarded, the examiner's recommendation as to the least restrictive placement or commitment alternative, consistent with the defendant's treatment needs for restoration to competency and with the safety of the community~~;~~

~~(e) If the defendant is charged with a misdemeanor offense that is not an offense of violence and the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant is presently mentally ill or mentally retarded, the examiner's recommendation as to whether the defendant is amenable to engagement in mental health treatment or developmental disability services~~.

(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time

of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.

(H) If the examiner's report filed under division (G) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a mentally retarded person subject to institutionalization by court order, the court shall order the defendant to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of developmental disabilities. Divisions (C) to (F) of this section apply in relation to a separate mental retardation evaluation conducted under this division. The psychologist appointed under this division to conduct the separate mental retardation evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate mental retardation evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions (G)(1) to (4) of this section. If the court orders a separate mental retardation evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37 of the Revised Code regarding that defendant until a report of the separate mental retardation evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.

(I) An examiner appointed under divisions (A) and (B) of this section or under division (H) of this section to evaluate a

defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

(J) No statement that a defendant makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the defendant's competence to stand trial or to the defendant's mental condition at the time of the offense charged shall be used against the defendant on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the prosecutor or defense counsel may call as a witness any person who evaluated the defendant or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the prosecutor or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.

(K) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court. The certified amount shall be paid by the county in the case of county courts and courts of common pleas and by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.

Sec. 2945.38. (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is

receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the defendant's competence to stand trial, unless the defendant's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B)(1)(a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial and that there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order the defendant to undergo treatment. If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(b) The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require mental health treatment or continuing evaluation and treatment, either shall be committed to the department of mental health for treatment or continuing evaluation and treatment at a hospital, facility, or agency, as determined to be clinically appropriate by the department of mental health ~~and~~ or shall be

committed to a facility certified by the department of mental health as being qualified to treat mental illness, to a public or community mental health facility, or to a psychiatrist or another mental health professional for treatment or continuing evaluation and treatment. Prior to placing the defendant, the department of mental health shall obtain court approval for that placement following a hearing. The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require treatment or continuing evaluation and treatment for ~~a developmental disability~~ mental retardation, shall receive treatment or continuing evaluation and treatment at an institution or facility operated by the department of developmental disabilities, at a facility certified by the department of developmental disabilities as being qualified to treat mental retardation, at a public or private ~~community~~ mental retardation facility, or by a psychiatrist or another mental retardation professional. ~~The~~ In any case, the order may restrict the defendant's freedom of movement as the court considers necessary. The prosecutor in the defendant's case shall send to the chief clinical officer of the hospital, facility, or agency where the defendant is placed by the department of mental health, or to the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed, copies of relevant police reports and other background information that pertains to the defendant and is available to the prosecutor unless the prosecutor determines that the release of any of the information in the police reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person.

In ~~committing the defendant to the department of mental health, the court shall consider the extent to which the person is~~

~~a danger to the person and to others, the need for security, and the type of crime involved and, if the court finds that restrictions on the defendant's freedom of movement are necessary, shall specify the least restrictive limitations on the person's freedom of movement determined to be necessary to protect public safety. In~~ determining the place of commitment ~~alternatives for defendants determined to require treatment or continuing evaluation and treatment for developmental disabilities~~, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and treatment goals. In weighing these factors, the court shall give preference to protecting public safety.

(c) If the defendant is found incompetent to stand trial, if the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a municipal court or a county court regarding an incompetent defendant charged with a misdemeanor or within ten days of the

filing of the petition if the petition was filed in a court of common pleas regarding an incompetent defendant charged with a felony offense. Following the hearing, the court may authorize the involuntary administration of medication or may dismiss the petition.

~~(d) If the defendant is charged with a misdemeanor offense that is not an offense of violence, the prosecutor may hold the charges in abeyance while the defendant engages in mental health treatment or developmental disability services.~~

(2) If the court finds that the defendant is incompetent to stand trial and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code alleging that the defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code.

The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 or 5123.71 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. or 5123. of the Revised Code.

(C) No defendant shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:

(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed;

(b) An offense of violence that is a felony of the first or second degree;

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree.

(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section;

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree;

(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor.

(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of mental health ~~with~~

~~restrictions on the defendant's freedom of movement~~ or is committed to an institution or facility for the treatment of ~~developmental disabilities~~ mental retardation shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under division (B)(1)(a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or facility where the defendant is placed by the department of mental health or the institution or facility to which the defendant is committed. The chief clinical officer of the hospital or facility where the defendant is placed by the department of mental health or the managing officer of the institution or director of the facility to which the defendant is committed, or a designee of any of those persons, may grant a defendant movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the defendant, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or facility where the defendant is placed by the department of mental health or the managing officer of the institution or director of the facility to which the defendant is committed shall notify the court within twenty-four hours of the defendant's movement to the medical facility for an emergency medical situation under this division.

(F) The person who supervises the treatment or continuing evaluation and treatment of a defendant ordered to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall file a written report with the court at the following times:

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or mentally retarded, and if the

maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive placement or commitment alternative that is consistent with the defendant's treatment needs for restoration to competency and with the safety of the community. The court shall provide copies of the report to the prosecutor and defense counsel.

(H) If a defendant is committed pursuant to division (B)(1) of this section, within ten days after the treating physician of the defendant or the examiner of the defendant who is employed or retained by the treating facility advises that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment, within ten days after the expiration of the maximum time for treatment as specified in division (C) of this section, within ten days after the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, within thirty days after a defendant's request for a hearing that is made after six months of treatment, or within thirty days after being advised by the treating physician or examiner that the defendant is competent to stand trial, whichever is the earliest, the court shall conduct another hearing to determine if the defendant is competent to stand trial and shall do whichever of the following is applicable:

(1) If the court finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law.

(2) If the court finds that the defendant is incompetent to stand trial, but that there is a substantial probability that the defendant will become competent to stand trial if the defendant is

provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change the ~~least restrictive limitations on the defendant's freedom of movement~~ facility or program at which the treatment is to be continued, and~~, if applicable,~~ shall specify whether the treatment ~~for developmental disabilities~~ is to be continued at the same or a different facility or ~~institution~~ program.

(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 2945.39, 2945.401, and 2945.402 of the Revised Code.

(4) If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a felony other than a felony listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment pursuant to Chapter 5122. or 5123. of the Revised Code.

If an affidavit for civil commitment is filed, the court may detain the defendant for ten days pending civil commitment. All of the following provisions apply to persons charged with a misdemeanor or a felony other than a felony listed in division (C)(1) of this section who are committed by the probate court subsequent to the court's or prosecutor's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall do all of the following:

(i) Notify the prosecutor, in writing, of the discharge of the defendant, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the defendant will be discharged;

(ii) Notify the prosecutor, in writing, when the defendant is absent without leave or is granted unsupervised, off-grounds movement, and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the prosecutor, in writing, of the change of the defendant's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the defendant was committed or admitted on a voluntary status.

(b) Upon receiving notice that the defendant will be granted unsupervised, off-grounds movement, the prosecutor either shall re-indict the defendant or promptly notify the court that the prosecutor does not intend to prosecute the charges against the defendant.

(I) If a defendant is convicted of a crime and sentenced to a

jail or workhouse, the defendant's sentence shall be reduced by the total number of days the defendant is confined for evaluation to determine the defendant's competence to stand trial or treatment under this section and sections 2945.37 and 2945.371 of the Revised Code or by the total number of days the defendant is confined for evaluation to determine the defendant's mental condition at the time of the offense charged.

Sec. 2945.39. (A) If a defendant who is charged with an offense described in division (C)(1) of section 2945.38 of the Revised Code is found incompetent to stand trial, after the expiration of the maximum time for treatment as specified in division (C) of that section or after the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, one of the following applies:

(1) The court or the prosecutor may file an affidavit in probate court for civil commitment of the defendant in the manner provided in Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may detain the defendant for ten days pending civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the prosecutor or on its own motion, the court may retain jurisdiction over the defendant if, at a hearing,

the court finds both of the following by clear and convincing evidence:

(a) The defendant committed the offense with which the defendant is charged.

(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order.

(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the defendant, the court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense charged, and any history of the defendant that is relevant to the defendant's ability to conform to the law.

(C) If the court conducts a hearing as described in division (A)(2) of this section and if the court does not make both findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall dismiss the indictment, information, or complaint against the defendant. Upon the dismissal, the court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may order that the defendant be detained for up to ten days pending the civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, <u>the director of the program,</u> or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code

within the periods of time and under the circumstances specified in those divisions. A dismissal of charges under this division is not a bar to further criminal proceedings based on the same conduct.

(D)(1) If the court conducts a hearing as described in division (A)(2) of this section and if the court makes the findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall commit the defendant, if determined to require mental health treatment, either to the department of mental health for treatment at a hospital, facility, or agency as determined clinically appropriate by the department of mental health or to another medical or psychiatric facility, as appropriate. Prior to placing the defendant, the department of mental health shall obtain court approval for that placement. If the court conducts such a hearing and if it makes those findings by clear and convincing evidence, the court shall commit the defendant, if determined to require treatment for ~~developmental disabilities~~ mental retardation, to a facility operated by the department of developmental disabilities, or another facility, as appropriate. ~~In committing the defendant to the department of mental health, the court shall specify the least restrictive limitations on the defendant's freedom of movement determined to be necessary to protect public safety. In determining the place and nature of the commitment to a facility operated by the department of developmental disabilities or another facility for treatment of developmental disabilities, the court~~ In determining the place of commitment, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive ~~commitment~~ alternative available that is consistent with public safety and the welfare of the defendant. In weighing these factors, the court shall give preference to protecting public safety.

(2) If a court makes a commitment of a defendant under division (D)(1) of this section, the prosecutor shall send to the hospital, facility, or agency where the defendant is placed by the department of mental health or to the defendant's place of commitment all reports of the defendant's current mental condition and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A)(2) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses. The prosecutor shall send the reports of the defendant's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the other relevant information. Upon admission of a defendant committed under division (D)(1) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the defendant were filed a copy of all reports of the defendant's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A)(2) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses.

(3) If a court makes a commitment under division (D)(1) of this section, all further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code.

Sec. 2945.40. (A) If a person is found not guilty by reason

of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. Prior to the hearing, if the trial judge believes that there is probable cause that the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or mentally retarded person subject to institutionalization by court order, the trial judge may issue a temporary order of detention for that person to remain in effect for ten court days or until the hearing, whichever occurs first.

Any person detained pursuant to a temporary order of detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court shall inform the person that the person has all of the following rights:

(1) The right to be represented by counsel and to have that counsel provided at public expense if the person is indigent, with the counsel to be appointed by the court under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code;

(2) The right to have independent expert evaluation and to have that independent expert evaluation provided at public expense if the person is indigent;

(3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses against the person;

(4) The right to testify in the person's own behalf and to not be compelled to testify;

(5) The right to have copies of any relevant medical or mental health document in the custody of the state or of any place of commitment other than a document for which the court finds that the release to the person of information contained in the document would create a substantial risk of harm to any person.

(D) The hearing under division (A) of this section shall be open to the public, and the court shall conduct the hearing in accordance with the Rules of Civil Procedure. The court shall make and maintain a full transcript and record of the hearing proceedings. The court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense in relation to which the person was found not guilty by reason of insanity, and any history of the person that is relevant to the person's ability to conform to the law.

(E) Upon completion of the hearing under division (A) of this section, if the court finds there is not clear and convincing

evidence that the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the court shall discharge the person, unless a detainer has been placed upon the person by the department of rehabilitation and correction, in which case the person shall be returned to that department.

(F) If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order, the court shall commit the person either to the department of mental health for ~~placement~~ treatment in a hospital, facility, or agency as determined clinically appropriate by the department of mental health or to another medical or psychiatric facility, as appropriate. Prior to placing the defendant, the department of mental health shall obtain court approval for that placement. If, at the hearing under division (A) of this section, the court ~~finds~~ determines by clear and convincing evidence that the person ~~is a mentally retarded person subject to institutionalization by court order~~ requires treatment for mental retardation, it shall commit the person to a facility operated by the department of developmental disabilities or another facility, as appropriate. Further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code. ~~In committing the person to the department of mental health, the court shall specify the least restrictive limitations to the defendant's freedom of movement determined to be necessary to protect public safety.~~ In determining the place ~~and nature~~ of ~~the~~ commitment ~~of a mentally retarded person subject to institutionalization by court order~~, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive ~~commitment~~ alternative available that is consistent with public safety and the welfare of the person. In weighing these factors,

the court shall give preference to protecting public safety.

(G) If a court makes a commitment of a person under division (F) of this section, the prosecutor shall send to the hospital, facility, or agency where the person is placed by the department of mental health or to the defendant's place of commitment all reports of the person's current mental condition, and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the person and that the prosecutor possesses. The prosecutor shall send the reports of the person's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the other relevant information. Upon admission of a person committed under division (F) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the person were filed a copy of all reports of the person's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the person and that the prosecutor possesses.

(H) A person who is committed pursuant to this section shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15,

5123.69, or 5123.76 of the Revised Code.

Sec. 2945.401. (A) A defendant found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code or a person found not guilty by reason of insanity and committed pursuant to section 2945.40 of the Revised Code shall remain subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section. If the jurisdiction is terminated under this division because of the final termination of the commitment resulting from the expiration of the maximum prison term or term of imprisonment described in division (J)(1)(b) of this section, the court or prosecutor may file an affidavit for the civil commitment of the defendant or person pursuant to Chapter 5122. or 5123. of the Revised Code.

(B) A hearing conducted under any provision of sections 2945.37 to 2945.402 of the Revised Code shall not be conducted in accordance with Chapters 5122. and 5123. of the Revised Code. Any person who is committed pursuant to section 2945.39 or 2945.40 of the Revised Code shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. All other provisions of Chapters 5122. and 5123. of the Revised Code regarding hospitalization or institutionalization shall apply to the extent they are not in conflict with this chapter. A commitment under section 2945.39 or 2945.40 of the Revised Code shall not be terminated and the conditions of the commitment shall not be changed except as otherwise provided in division (D)(2) of this section with respect to a mentally retarded person subject to institutionalization by court order or except by order of the trial court.

(C) The department of mental health or the institution ~~or~~, facility, or program to which a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code shall report in writing to the trial court, at the times specified in this division, as to whether the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order and, in the case of a defendant committed under section 2945.39 of the Revised Code, as to whether the defendant remains incompetent to stand trial. The department, institution, ~~or~~ facility, or program shall make the reports after the initial six months of treatment and every two years after the initial report is made. The trial court shall provide copies of the reports to the prosecutor and to the counsel for the defendant or person. Within thirty days after its receipt pursuant to this division of a report from the department, institution, ~~or~~ facility, or program, the trial court shall hold a hearing on the continued commitment of the defendant or person or on any changes in the conditions of the commitment of the defendant or person. The defendant or person may request a change in the conditions of confinement, and the trial court shall conduct a hearing on that request if six months or more have elapsed since the most recent hearing was conducted under this section.

(D)(1) Except as otherwise provided in division (D)(2) of this section, when a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code, at any time after evaluating the risks to public safety and the welfare of the defendant or person, the designee of the department of mental health or the managing officer of the institution or director of the facility or program to which the defendant or person is committed may recommend a termination of the defendant's or person's commitment or a change in the conditions of the defendant's or person's commitment.

Except as otherwise provided in division (D)(2) of this section, if the designee of the department of mental health recommends on-grounds unsupervised movement, off-grounds supervised movement, or nonsecured status for the defendant or person or termination of the defendant's or person's commitment, the following provisions apply:

(a) If the department's designee recommends on-grounds unsupervised movement or off-grounds supervised movement, the department's designee shall file with the trial court an application for approval of the movement and shall send a copy of the application to the prosecutor. Within fifteen days after receiving the application, the prosecutor may request a hearing on the application and, if a hearing is requested, shall so inform the department's designee. If the prosecutor does not request a hearing within the fifteen-day period, the trial court shall approve the application by entering its order approving the requested movement or, within five days after the expiration of the fifteen-day period, shall set a date for a hearing on the application. If the prosecutor requests a hearing on the application within the fifteen-day period, the trial court shall hold a hearing on the application within thirty days after the hearing is requested. If the trial court, within five days after the expiration of the fifteen-day period, sets a date for a hearing on the application, the trial court shall hold the hearing within thirty days after setting the hearing date. At least fifteen days before any hearing is held under this division, the trial court shall give the prosecutor written notice of the date, time, and place of the hearing. At the conclusion of each hearing conducted under this division, the trial court either shall approve or disapprove the application and shall enter its order accordingly.

(b) If the department's designee recommends termination of

the defendant's or person's commitment at any time or if the department's designee recommends the first of any nonsecured status for the defendant or person, the department's designee shall send written notice of this recommendation to the trial court and to the local forensic center. The local forensic center shall evaluate the committed defendant or person and, within thirty days after its receipt of the written notice, shall submit to the trial court and the department's designee a written report of the evaluation. The trial court shall provide a copy of the department's designee's written notice and of the local forensic center's written report to the prosecutor and to the counsel for the defendant or person. Upon the local forensic center's submission of the report to the trial court and the department's designee, all of the following apply:

(i) If the forensic center disagrees with the recommendation of the department's designee, it shall inform the department's designee and the trial court of its decision and the reasons for the decision. The department's designee, after consideration of the forensic center's decision, shall either withdraw, proceed with, or modify and proceed with the recommendation. If the department's designee proceeds with, or modifies and proceeds with, the recommendation, the department's designee shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(ii) If the forensic center agrees with the recommendation of the department's designee, it shall inform the department's designee and the trial court of its decision and the reasons for the decision, and the department's designee shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(iii) If the forensic center disagrees with the recommendation of the department's designee and the department's designee proceeds with, or modifies and proceeds with, the recommendation or if the forensic center agrees with the

recommendation of the department's designee, the department's designee shall work with community mental health agencies, programs, facilities, or boards of alcohol, drug addiction, and mental health services or community mental health boards to develop a plan to implement the recommendation. If the defendant or person is on medication, the plan shall include, but shall not be limited to, a system to monitor the defendant's or person's compliance with the prescribed medication treatment plan. The system shall include a schedule that clearly states when the defendant or person shall report for a medication compliance check. The medication compliance checks shall be based upon the effective duration of the prescribed medication, taking into account the route by which it is taken, and shall be scheduled at intervals sufficiently close together to detect a potential increase in mental illness symptoms that the medication is intended to prevent.

The department's designee, after consultation with the board of alcohol, drug addiction, and mental health services or the community mental health board serving the area, shall send the recommendation and plan developed under division (D)(1)(b)(iii) of this section, in writing, to the trial court, the prosecutor, and the counsel for the committed defendant or person. The trial court shall conduct a hearing on the recommendation and plan developed under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) and (d) and (E) to (J) of this section apply regarding the hearing.

(c) If the department's designee's recommendation is for nonsecured status or termination of commitment, the prosecutor may obtain an independent expert evaluation of the defendant's or person's mental condition, and the trial court may continue the hearing on the recommendation for a period of not more than thirty days to permit time for the evaluation.

The prosecutor may introduce the evaluation report or present other evidence at the hearing in accordance with the Rules of Evidence.

(d) The trial court shall schedule the hearing on a department's designee's recommendation for nonsecured status or termination of commitment and shall give reasonable notice to the prosecutor and the counsel for the defendant or person. Unless continued for independent evaluation at the prosecutor's request or for other good cause, the hearing shall be held within thirty days after the trial court's receipt of the recommendation and plan.

(2)(a) Division (D)(1) of this section does not apply to on-grounds unsupervised movement of a defendant or person who has been committed under section 2945.39 or 2945.40 of the Revised Code, who is a mentally retarded person subject to institutionalization by court order, and who is being provided residential habilitation, care, and treatment in a facility operated by the department of developmental disabilities.

(b) If, pursuant to section 2945.39 of the Revised Code, the trial court commits a defendant who is found incompetent to stand trial and who is a mentally retarded person subject to institutionalization by court order, if the defendant is being provided residential habilitation, care, and treatment in a facility operated by the department of developmental disabilities, if an individual who is conducting a survey for the department of health to determine the facility's compliance with the certification requirements of the medicaid program under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the defendant's receipt of the residential habilitation, care, and treatment in the facility as being inappropriate under the certification requirements, if the defendant's receipt of the

residential habilitation, care, and treatment in the facility potentially jeopardizes the facility's continued receipt of federal medicaid moneys, and if as a result of the citation the chief clinical officer of the facility determines that the conditions of the defendant's commitment should be changed, the department of developmental disabilities may cause the defendant to be removed from the particular facility and, after evaluating the risks to public safety and the welfare of the defendant and after determining whether another type of placement is consistent with the certification requirements, may place the defendant in another facility that the department selects as an appropriate facility for the defendant's continued receipt of residential habilitation, care, and treatment and that is a no less secure setting than the facility in which the defendant had been placed at the time of the citation. Within three days after the defendant's removal and alternative placement under the circumstances described in division (D)(2)(b) of this section, the department of developmental disabilities shall notify the trial court and the prosecutor in writing of the removal and alternative placement.

The trial court shall set a date for a hearing on the removal and alternative placement, and the hearing shall be held within twenty-one days after the trial court's receipt of the notice from the department of developmental disabilities. At least ten days before the hearing is held, the trial court shall give the prosecutor, the department of developmental disabilities, and the counsel for the defendant written notice of the date, time, and place of the hearing. At the hearing, the trial court shall consider the citation issued by the individual who conducted the survey for the department of health to be prima-facie evidence of the fact that the defendant's commitment to the particular facility was inappropriate under the certification requirements of the medicaid program under Chapter 5111. of the Revised Code and

Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and potentially jeopardizes the particular facility's continued receipt of federal medicaid moneys. At the conclusion of the hearing, the trial court may approve or disapprove the defendant's removal and alternative placement. If the trial court approves the defendant's removal and alternative placement, the department of developmental disabilities may continue the defendant's alternative placement. If the trial court disapproves the defendant's removal and alternative placement, it shall enter an order modifying the defendant's removal and alternative placement, but that order shall not require the department of developmental disabilities to replace the defendant for purposes of continued residential habilitation, care, and treatment in the facility associated with the citation issued by the individual who conducted the survey for the department of health.

(E) In making a determination under this section regarding nonsecured status or termination of commitment, the trial court shall consider all relevant factors, including, but not limited to, all of the following:

(1) Whether, in the trial court's view, the defendant or person currently represents a substantial risk of physical harm to the defendant or person or others;

(2) Psychiatric and medical testimony as to the current mental and physical condition of the defendant or person;

(3) Whether the defendant or person has insight into the ~~dependant's~~ defendant's or person's condition so that the defendant or person will continue treatment as prescribed or seek professional assistance as needed;

(4) The grounds upon which the state relies for the proposed commitment;

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D)(1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D)(1) of this section, the prosecutor has the burden of proof as follows:

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order;

(2) For a recommendation for a change in the conditions of the commitment to a less restrictive status, to show by clear and convincing evidence that the proposed change represents a threat to public safety or a threat to the safety of any person.

(H) In a hearing held pursuant to division (C) or (D)(1) or (2) of this section, the prosecutor shall represent the state or the public interest.

(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the designee of the department of mental health, managing officer of the institution, or director of a facility <u>or program</u>, the trial

court may approve, disapprove, or modify the recommendation and shall enter an order accordingly.

(J)(1) A defendant or person who has been committed pursuant to section 2945.39 or 2945.40 of the Revised Code continues to be under the jurisdiction of the trial court until the final termination of the commitment. For purposes of division (J) of this section, the final termination of a commitment occurs upon the earlier of one of the following:

(a) The defendant or person no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, as determined by the trial court;

(b) The expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found not guilty by reason of insanity;

(c) The trial court enters an order terminating the commitment under the circumstances described in division (J)(2)(a)(ii) of this section.

(2)(a) If a defendant is found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code, if neither of the circumstances described in divisions (J)(1)(a) and (b) of this section applies to that defendant, and if a report filed with the trial court pursuant to division (C) of this section indicates that the defendant presently is competent to stand trial or if, at any other time during the period of the defendant's commitment, the prosecutor, the counsel for the defendant, or the designee of the department of mental health or the managing officer of the institution or director of the

facility or program to which the defendant is committed files an application with the trial court alleging that the defendant presently is competent to stand trial and requesting a hearing on the competency issue or the trial court otherwise has reasonable cause to believe that the defendant presently is competent to stand trial and determines on its own motion to hold a hearing on the competency issue, the trial court shall schedule a hearing on the competency of the defendant to stand trial, shall give the prosecutor, the counsel for the defendant, and the department's designee or the managing officer of the institution or the director of the facility to which the defendant is committed notice of the date, time, and place of the hearing at least fifteen days before the hearing, and shall conduct the hearing within thirty days of the filing of the application or of its own motion. If, at the conclusion of the hearing, the trial court determines that the defendant presently is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense, the trial court shall order that the defendant is competent to stand trial and shall be proceeded against as provided by law with respect to the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code and shall enter whichever of the following additional orders is appropriate:

(i) If the trial court determines that the defendant remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the department of mental health or to an institution ~~or,~~ facility, or program for the treatment of ~~developmental disabilities~~ mental retardation be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code.

(ii) If the trial court determines that the defendant no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the department of mental health or to an institution ~~or,~~ facility, or program for the treatment of ~~developmental disabilities~~ mental retardation shall not be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code. This order shall be a final termination of the commitment for purposes of division (J)(1)(c) of this section.

(b) If, at the conclusion of the hearing described in division (J)(2)(a) of this section, the trial court determines that the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the trial court shall order that the defendant continues to be incompetent to stand trial, that the defendant's commitment to the department of mental health or to an institution ~~or,~~ facility, or program for the treatment of ~~developmental disabilities~~ mental retardation shall be continued, and that the defendant remains subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section.

Sec. 2961.22. (A)(1) Any prisoner serving a prison term in a state correctional institution who satisfies all of the following is eligible to apply to the department of rehabilitation and correction at a time specified in division (A)(2) of this section and in accordance with division (D) of this section for a certificate of achievement and employability:

(a) The prisoner has satisfactorily completed one or more

in-prison vocational programs approved by rule by the department of rehabilitation and correction.

(b) The prisoner has demonstrated exemplary performance as determined by completion of one or more cognitive or behavioral improvement programs approved by rule by the department while incarcerated in a state correctional institution, while under supervision, or during both periods of time.

(c) The prisoner has completed community service hours.

(d) The prisoner shows other evidence of achievement and rehabilitation while under the jurisdiction of the department.

(2) An eligible prisoner may apply to the department of rehabilitation and correction under division (A)(1) of this section for a certificate of achievement and employability no earlier than one year prior to the date scheduled for the release of the prisoner from department custody and no later than the date of release of the prisoner.

(B)(1) Any prisoner who has been released from a state correctional institution, who is under supervision on parole or under a post-release control sanction, and who satisfies all of the criteria set forth in division (A)(1) of this section is eligible to apply to the adult parole authority at a time specified in division (B)(2) of this section and in accordance with division (D) of this section for a certificate of achievement and employability.

(2) An eligible prisoner may apply to the adult parole authority under division (B)(1) of this section for a certificate of achievement and employability at any time while the prisoner is under supervision on parole or under a post-release control sanction.

(C)(1) An eligible prisoner may apply to the department of rehabilitation and correction or to the adult parole authority at

a time specified in division (A) or (B) of this section, whichever is applicable, for a certificate of achievement and employability that grants the prisoner relief from one or more mandatory civil impacts that would affect a potential job within a field in which the prisoner trained as part of the prisoner's in-prison vocational program. The prisoner shall specify the mandatory civil impacts from which the prisoner is requesting relief under the certificate. Upon application by a prisoner in accordance with this division, if the mandatory civil impact of any licensing agency would be affected by the issuance of the certificate to the prisoner, the department or authority shall notify the licensing agency of the filing of the application, provide the licensing agency with a copy of the application and all evidence that the department, authority, or court has regarding the prisoner, and afford the licensing agency with an opportunity to object in writing to the issuance of the certificate to the prisoner.

(2) Upon application by a prisoner in accordance with division (C)(1) of this section, the department of rehabilitation and correction or the adult parole authority, whichever is applicable, shall consider the application and all objections to the issuance of a certificate of achievement and employability to the prisoner, if any, that were made by a licensing agency under division (C)(1) of this section. If the department or authority determines that the prisoner is an eligible prisoner, that the application was filed at a time specified in division (B) of this section, and that any licensing agency objections to the issuance of the certificate to the prisoner are not sufficient to deny the issuance of the certificate to the prisoner, subject to division (C)(3) of this section, the department or authority shall issue the prisoner a certificate of achievement and employability that grants the prisoner relief from the mandatory civil impacts that are specified in the prisoner's application and that would affect a potential job within a field in which the prisoner trained as

part of the prisoner's in-prison vocational program.

(3) The mandatory civil impacts identified in division (A)(1) of section 2961.01 and in division (B) of section 2961.02 of the Revised Code shall not be affected by any certificate of achievement and employability issued under this section. No certificate of achievement and employability issued to a prisoner under this section grants the prisoner relief from the mandatory civil impacts identified in division (A)(1) of section 2961.01 and in division (B) of section 2961.02 of the Revised Code.

(E) The department of rehabilitation and correction shall adopt rules that define in-prison vocational programs and cognitive or behavioral improvement programs that a prisoner may complete to satisfy the criteria described in divisions (A)(1)(a) and (b) of this section.

(F) The department of rehabilitation and correction and the adult parole authority shall not be liable for any claim for damages arising from the department's or authority's issuance, denial, or revocation of a certificate of achievement and employability or for the department's or authority's failure to revoke a certificate of achievement and employability under the circumstances described in section 2961.24 of the Revised Code.

Sec. 2967.03. The adult parole authority may exercise its functions and duties in relation to the pardon, commutation of sentence, or reprieve of a convict upon direction of the governor or upon its own initiative. It may exercise its functions and duties in relation to the parole of a prisoner who is eligible for parole upon the initiative of the head of the institution in which the prisoner is confined or upon its own initiative. When a prisoner becomes eligible for parole, the head of the institution in which the prisoner is confined shall notify the authority in the manner prescribed by the authority. The authority may

investigate and examine, or cause the investigation and examination of, prisoners confined in state correctional institutions concerning their conduct in the institutions, their mental and moral qualities and characteristics, their knowledge of a trade or profession, their former means of livelihood, their family relationships, and any other matters affecting their fitness to be at liberty without being a threat to society.

The authority may recommend to the governor the pardon, commutation of sentence, ~~medical release,~~ or reprieve of any convict or prisoner or grant a parole to any prisoner for whom parole is authorized, if in its judgment there is reasonable ground to believe that granting a pardon, commutation, ~~medical release,~~ or reprieve to the convict or paroling the prisoner would further the interests of justice and be consistent with the welfare and security of society. However, the authority shall not recommend a pardon~~,~~ or commutation of sentence, ~~or medical release of,~~ or grant a parole to, any convict or prisoner until the authority has complied with the applicable notice requirements of sections 2930.16 and 2967.12 of the Revised Code and until it has considered any statement made by a victim or a victim's representative that is relevant to the convict's or prisoner's case and that was sent to the authority pursuant to section 2930.17 of the Revised Code, any other statement made by a victim or a victim's representative that is relevant to the convict's or prisoner's case and that was received by the authority after it provided notice of the pendency of the action under sections 2930.16 and 2967.12 of the Revised Code, and any written statement of any person submitted to the court pursuant to division (G) of section 2967.12 of the Revised Code. If a victim, victim's representative, or the victim's spouse, parent, sibling, or child appears at a full board hearing of the parole board and gives testimony as authorized by section 5149.101 of the Revised Code, the authority shall consider the testimony in determining whether

to grant a parole. The trial judge and prosecuting attorney of the trial court in which a person was convicted shall furnish to the authority, at the request of the authority, a summarized statement of the facts proved at the trial and of all other facts having reference to the propriety of recommending a pardon, commutation, or medical release, or granting a parole, together with a recommendation for or against a pardon, commutation, medical release, or parole, and the reasons for the recommendation. The trial judge, the prosecuting attorney, specified law enforcement agency members, and a representative of the prisoner may appear at a full board hearing of the parole board and give testimony in regard to the grant of a parole to the prisoner as authorized by section 5149.101 of the Revised Code. All state and local officials shall furnish information to the authority, when so requested by it in the performance of its duties.

The adult parole authority shall exercise its functions and duties in relation to the release of prisoners who are serving a stated prison term in accordance with section 2967.28 of the Revised Code.

Sec. 2967.05. (A) As used in this section:

(1) "Imminent danger of death" means that the inmate has a medically diagnosable condition that will cause death to occur within a short period of time.

As used in division (A)(1) of this section, "within a short period of time" means generally within six months.

(2)(a) "Medically incapacitated" means any diagnosable medical condition, including mental dementia and severe, permanent medical or cognitive disability, that prevents the inmate from completing activities of daily living without significant assistance, that incapacitates the inmate to the extent that institutional confinement does not offer additional restrictions,

that is likely to continue throughout the entire period of parole, and that is unlikely to improve noticeably.

(b) "Medically incapacitated" does not include conditions related solely to mental illness unless the mental illness is accompanied by injury, disease, or organic defect.

(3)(a) "Terminal illness" means a condition that satisfies all of the following criteria:

(i) The condition is irreversible and incurable and is caused by disease, illness, or injury from which the inmate is unlikely to recover.

(ii) In accordance with reasonable medical standards and a reasonable degree of medical certainty, the condition is likely to cause death to the inmate within twelve months.

(iii) Institutional confinement of the inmate does not offer additional protections for public safety or against the inmate's risk to reoffend.

(b) The department of rehabilitation and correction shall adopt rules pursuant to Chapter 119. of the Revised Code to implement the definition of "terminal illness" in division (A)(3)(a) of this section.

(B) Upon the recommendation of the director of rehabilitation and correction, accompanied by a certificate of the attending physician that an inmate is terminally ill, medically incapacitated, or in imminent danger of death, the governor may order the inmate's release as if on parole, reserving the right to return the inmate to the institution pursuant to this section. If, subsequent to the inmate's release, the inmate's health improves so that the inmate is no longer terminally ill, medically incapacitated, or in imminent danger of death, the inmate shall be returned, by order of the governor, to the institution from which the inmate was released. If the inmate violates any rules or

conditions applicable to the inmate, the inmate may be returned to an institution under the control of the department of rehabilitation and correction. The governor may direct the adult parole authority to investigate or cause to be investigated the inmate and make a recommendation ~~in the manner set forth in section 2967.03 of the Revised Code~~. An inmate released under this section shall be subject to supervision by the adult parole authority in accordance with any recommendation of the adult parole authority that is approved by the governor. The adult parole authority shall adopt rules pursuant to section 119.03 of the Revised Code to establish the procedure for medical release of an inmate when an inmate is terminally ill, medically incapacitated, or in imminent danger of death.

(C) No inmate is eligible for release under this section if the inmate is serving a death sentence, a sentence of life without parole, a sentence under Chapter 2971. of the Revised Code for a felony of the first or second degree, a sentence for aggravated murder or murder, or a mandatory prison term for an offense of violence or any specification described in Chapter 2941. of the Revised Code.

Sec. 2967.14. (A) The department of rehabilitation and correction or the adult parole authority may require or allow a parolee, a releasee, or a prisoner otherwise released from a state correctional institution to reside in a halfway house or other suitable community residential center that has been licensed by the division of parole and community services pursuant to division (C) of this section during a part or for the entire period of the offender's or parolee's conditional release or of the releasee's term of post-release control. The court of common pleas that placed an offender under a sanction consisting of a term in a halfway house or in an alternative residential sanction may require the offender to reside in a halfway house or other

suitable community residential center that is designated by the court and that has been licensed by the division pursuant to division (C) of this section during a part or for the entire period of the offender's residential sanction.

(B) The division of parole and community services may negotiate and enter into agreements with any public or private agency or a department or political subdivision of the state that operates a halfway house, reentry center, or community residential center that has been licensed by the division pursuant to division (C) of this section. An agreement under this division shall provide for the purchase of beds, shall set limits of supervision and levels of occupancy, and shall determine the scope of services for all eligible offenders, including those subject to a residential sanction, as defined in rules adopted by the director of rehabilitation and correction in accordance with Chapter 119. of the Revised Code, or those released from prison without supervision. The payments for beds and services shall not exceed the total operating costs of the halfway house, reentry center, or community residential center during the term of an agreement. The director of rehabilitation and correction shall adopt rules in accordance with Chapter 119. of the Revised Code for determining includable and excludable costs and income to be used in computing the agency's average daily per capita costs with its facility at full occupancy.

The ~~department~~ director of rehabilitation and correction ~~may~~ shall adopt rules providing for the use of no more than ~~ten~~ fifteen per cent of the amount appropriated to the department each fiscal year for the halfway house, reentry center, and community residential center program to pay for contracts with licensed halfway houses for nonresidential services for offenders under the supervision of the adult parole authority, including but not limited to, offenders supervised pursuant to an agreement entered

into by the adult parole authority and a court of common pleas under section 2301.32 of the Revised Code. The nonresidential services may include, but are not limited to, treatment for substance abuse, mental health counseling, counseling for sex offenders, ~~and~~ electronic monitoring services, aftercare, and other nonresidential services that the director identifies by rule.

(C) The division of parole and community services may license a halfway house, reentry center, or community residential center as a suitable facility for the care and treatment of adult offenders, including offenders sentenced under section 2929.16 or 2929.26 of the Revised Code, only if the halfway house, reentry center, or community residential center complies with the standards that the division adopts in accordance with Chapter 119. of the Revised Code for the licensure of halfway houses, reentry centers, and community residential centers. The division shall annually inspect each licensed halfway house, licensed reentry center, and licensed community residential center to determine if it is in compliance with the licensure standards.

Sec. 2967.19. (A) As used in this section:

(1) "Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(2) "Disqualifying prison term" means any of the following:

(a) A prison term imposed for aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, kidnapping, rape, aggravated arson, aggravated burglary, or aggravated robbery;

(b) A prison term imposed for complicity in, an attempt to commit, or conspiracy to commit any offense listed in division (A)(2)(a) of this section;

(c) A prison term of life imprisonment, including any term of life imprisonment that has parole eligibility;

(d) A prison term imposed for any felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance;

(e) A prison term imposed for any violation of section 2925.03 of the Revised Code that is a felony of the first or second degree;

(f) A prison term imposed for engaging in a pattern of corrupt activity in violation of section 2923.32 of the Revised Code;

(g) A prison term imposed pursuant to section 2971.03 of the Revised Code;

(h) A prison term imposed for any sexually oriented offense.

(3) "Eligible prison term" means any prison term that is not a disqualifying prison term and is not a restricting prison term.

(4) "Restricting prison term" means any of the following:

(a) A mandatory prison term imposed under division ~~(D)~~(B)(1)(a), ~~(D)~~(B)(1)(c), ~~(D)~~(B)(1)(f), ~~(D)~~(B)(1)(g), ~~(D)~~(B)(2), or ~~(D)~~(B)(7) of section 2929.14 of the Revised Code for a specification of the type described in that division;

(b) In the case of an offender who has been sentenced to a mandatory prison term for a specification of the type described in division (A)(4)(a) of this section, the prison term imposed for the felony offense for which the specification was stated at the end of the body of the indictment, count in the indictment, or information charging the offense;

(c) A prison term imposed for trafficking in persons;

(d) A prison term imposed for any offense that is described

in division (A)(4)(d)(i) of this section if division (A)(4)(d)(ii) of this section applies to the offender:

(i) The offense is a felony of the first or second degree that is an offense of violence and that is not described in division (A)(2)(a) or (b) of this section, an attempt to commit a felony of the first or second degree that is an offense of violence and that is not described in division (A)(2)(a) or (b) of this section if the attempt is a felony of the first or second degree, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to any other offense described in this division.

(ii) The offender previously was convicted of or pleaded guilty to any offense listed in division (A)(2) or (A)(4)(d)(i) of this section.

(5) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

(B) The director of the department of rehabilitation and correction may ~~petition~~ recommend in writing to the sentencing court ~~for the release~~ that the court consider releasing from prison ~~of~~ any offender who, on or after September 30, 2011, is confined in a state correctional institution ~~under~~, who is serving a stated prison term of one year or more, and who is eligible under division (C) of this section for a release under this section ~~and who has served at least eighty per cent of that stated prison term that remains to be served after the offender becomes eligible as described in that division~~. If the director wishes to ~~submit a petition for release~~ recommend that the sentencing court consider releasing an offender under this section, the director shall ~~submit the petition~~ notify the sentencing court in writing of the offender's eligibility not earlier than ninety days prior to the date on which the offender ~~has served eighty per cent of~~

~~the offender's stated prison term that remains to be served after the offender~~ becomes eligible as described in division (C) of this section. The director's submission of ~~a petition for release under this section~~ the written notice constitutes a recommendation by the director that the court strongly consider release of the offender consistent with the purposes and principles of sentencing set forth in sections 2929.11 and 2929.13 of the Revised Code. Only an offender recommended by the director under division (B) of this section may be considered for early release under this section.

(C)(1) An offender serving a stated prison term of one year or more and who has commenced service of that stated prison term becomes eligible for release from prison under this section only as described in this division. An offender serving a stated prison term that includes a disqualifying prison term is not eligible for release from prison under this section. An offender serving a stated prison term that consists solely of one or more restricting prison terms is not eligible for release under this section. An offender serving a stated prison term of one year or more that includes one or more restricting prison terms and one or more eligible prison terms becomes eligible for release under this section after having fully served ~~each~~ all restricting prison ~~term~~ terms and having served eighty per cent of the stated prison term that remains to be served after all restricting prison terms have been fully served. An offender serving a stated prison term that consists solely of one or more eligible prison terms becomes eligible for release under this section ~~upon the offender's commencement of service~~ after having served eighty per cent of that stated prison term. ~~After an offender becomes eligible for release under this section, the director of rehabilitation and correction may petition for the release of the offender under division (C)(2) of this section no earlier than ninety days before the offender has served the portion of the offender's stated~~

~~prison term specified in that division.~~ For purposes of determining an offender's eligibility for release under this section, if the offender's stated prison term includes consecutive prison terms, any restricting prison terms shall be deemed served prior to any eligible prison terms that run consecutively to the restricting prison terms, and the eligible prison terms are deemed to commence after all of the restricting prison terms have been fully served.

An offender serving a stated prison term ~~one~~ of one year or more that includes a mandatory prison term that is not a disqualifying prison term and is not a restricting prison term is not automatically ineligible as a result of the offender's service of that mandatory term for release from prison under this section, and the offender's eligibility for release from prison under this section is determined in accordance with this division.

(2) If an offender confined in a state correctional institution under a stated prison term is eligible for release under this section as described in division (C)(1) of this section, the director of the department of rehabilitation and correction may ~~petition~~ recommend in writing that the sentencing court ~~pursuant to division (B) of this section for the release~~ consider releasing the offender from prison ~~of the offender~~ under this section by submitting to the sentencing court the written notice described in division (B) of this section.

(D) The director shall include with any ~~petition~~ notice submitted to the sentencing court under division (B) of this section an institutional summary report that covers the offender's participation while confined in a state correctional institution in school, training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the offender while so confined. The director shall include with the ~~petition a post-release control assessment and placement plan, when relevant,~~

~~and~~ notice any other documentation requested by the court, if available.

(E) When the director submits a ~~petition~~ written notice to a sentencing court that an offender is eligible to be considered for early release under this section ~~for release of an offender~~, the department promptly shall provide to the prosecuting attorney of the county in which the offender was indicted a copy of the ~~petition~~ written notice, a copy of the institutional summary report, and any other information provided to the court. The department also promptly shall give written notice of the ~~filing of the petition~~ submission to any victim of the offender or victim's representative of any victim of the offender who is registered with the office of victim's services.

The department also shall post a copy of the written notice ~~of the petition~~ on the database it maintains under section 5120.66 of the Revised Code and include information on where a person may send comments regarding the ~~petition~~ recommendation of early release.

The information provided to the court, the prosecutor, and the victim or victim's representative under divisions (D) and (E) of this section shall include the name and contact information of a specific department of rehabilitation and correction employee who is available to answer questions about the offender who is the subject of the written notice submitted by the director, including, but not limited to, the offender's institutional conduct and rehabilitative activities while incarcerated.

(F) Upon receipt of a ~~petition for release of an offender~~ written notice submitted by the director under division (B) of this section, the court ~~may deny the petition without~~ either shall, on its own motion, schedule a hearing to consider releasing the offender who is the subject of the notice or shall inform the department that it will not be conducting a hearing relative to

the offender. The court shall not grant ~~a petition for~~ an early release ~~of~~ to an offender without holding a hearing. If a court ~~denies a petition for release of an offender without~~ declines to hold a hearing relative to an offender with respect to a written notice submitted by the director, the court may later consider release of that offender under this section on ~~a subsequent petition. The court shall enter its ruling within~~ its own motion by scheduling a hearing for that purpose. Within thirty days after the ~~petition~~ written notice is ~~filed~~ submitted, the court shall inform the department whether or not the court is scheduling a hearing on the offender who is the subject of the notice.

(G) If the court ~~grants~~ schedules a hearing ~~on~~ upon receiving a ~~petition for release of an offender~~ written notice submitted under division (B) of this section or upon its own motion under division (F) of this section, the court shall notify the head of the state correctional institution in which the offender is confined of the hearing prior to the hearing. If the court makes a journal entry ordering the offender to be conveyed to the hearing, except as otherwise provided in this division, the head of the correctional institution shall deliver the offender to the sheriff of the county in which the hearing is to be held, and the sheriff shall convey the offender to and from the hearing. Upon the court's own motion or the motion of the offender or the prosecuting attorney of the county in which the offender was indicted, the court may permit the offender to appear at the hearing by video conferencing equipment if equipment of that nature is available and compatible.

Upon receipt of notice from a court of a hearing on the release of an offender under this division, the head of the state correctional institution in which the offender is confined immediately shall notify the appropriate person at the department of rehabilitation and correction of the hearing, and the

department within twenty-four hours after receipt of the notice shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A)(1)(c)(i) of that section. If the court ~~grants~~ schedules a hearing ~~on a petition for release of an offender~~ under this section, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall notify pursuant to section 2930.16 of the Revised Code any victim of the offender or the victim's representative of the hearing.

(H) If the court ~~grants~~ schedules a hearing ~~on a petition for release of an offender~~ under this section, at the hearing, the court shall afford the offender and the offender's attorney an opportunity to present written information and, if present, oral information relevant to the ~~motion~~ offender's early release. The court shall afford a similar opportunity to the prosecuting attorney, victim or victim's representative, as defined in section 2930.01 of the Revised Code, and any other person the court determines is likely to present additional relevant information. If the court pursuant to division (G) of this section permits the offender to appear at the hearing by video conferencing equipment, the offender's opportunity to present oral information shall be as a part of the video conferencing. The court shall consider any statement of a victim made under section 2930.14 or 2930.17 of the Revised Code, any victim impact statement prepared under section 2947.051 of the Revised Code, and any report~~, plan,~~ and other documentation submitted by the director under division (D) of this section. After ruling on ~~the motion~~ whether to grant the offender early release, the court shall notify the victim in accordance with sections 2930.03 and 2930.16 of the Revised Code.

(I) If the court grants ~~a petition for release of~~ an offender

early release under this section, it shall order the release of the offender, shall place the offender under one or more appropriate community control sanctions, under appropriate conditions, and under the supervision of the department of probation that serves the court, and shall reserve the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction. The court shall not make a release under this section effective prior to the date on which the offender ~~has served at least eighty per cent of the offender's stated prison term that remains to be served after the offender~~ becomes eligible as described in division (C) of this section. If the sentence under which the offender is confined in a state correctional institution and from which the offender is being released was imposed for a felony of the first or second degree, the court shall consider ordering that the offender be monitored by means of a global positioning device. If the court reimposes the sentence that it reduced and from which the offender was released and if the violation of the sanction is a new offense, the court may order that the reimposed sentence be served either concurrently with, or consecutive to, any new sentence imposed upon the offender as a result of the violation that is a new offense. The period of all community control sanctions imposed under this division shall not exceed five years. The court, in its discretion, may reduce the period of community control sanctions by the amount of time the offender spent in jail or prison for the offense.

If the court grants ~~a petition for release of~~ an offender early release under this section, it shall notify the appropriate person at the department of rehabilitation and correction of the release, and the department shall post notice of the release on the database it maintains pursuant to section 5120.66 of the Revised Code.

(J) The department shall adopt under Chapter 119. of the Revised Code any rules necessary to implement this section.

Sec. 2967.191. The department of rehabilitation and correction shall reduce the stated prison term of a prisoner or, if the prisoner is serving a term for which there is parole eligibility, the minimum and maximum term or the parole eligibility date of the prisoner by the total number of days that the prisoner was confined for any reason arising out of the offense for which the prisoner was convicted and sentenced, including confinement in lieu of bail while awaiting trial, confinement for examination to determine the prisoner's competence to stand trial or sanity, and confinement while awaiting transportation to the place where the prisoner is to serve the prisoner's prison term, as determined by the sentencing court under division (B)(2)(h)(i) of section 2929.19 of the Revised Code. The department of rehabilitation and correction also shall reduce the stated prison term of a prisoner or, if the prisoner is serving a term for which there is parole eligibility, the minimum and maximum term or the parole eligibility date of the prisoner by the total number of days, if any, that the prisoner previously served in the custody of the department of rehabilitation and correction arising out of the offense for which the prisoner was convicted and sentenced.

Sec. 2967.26. (A)(1) The department of rehabilitation and correction, by rule, may establish a transitional control program for the purpose of closely monitoring a prisoner's adjustment to community supervision during the final one hundred eighty days of the prisoner's confinement. If the department establishes a transitional control program under this division, the adult parole authority may transfer eligible prisoners to transitional control status under the program during the final one hundred eighty days

of their confinement and under the terms and conditions established by the department, shall provide for the confinement as provided in this division of each eligible prisoner so transferred, and shall supervise each eligible prisoner so transferred in one or more community control sanctions. Each eligible prisoner who is transferred to transitional control status under the program shall be confined in a suitable facility that is licensed pursuant to division (C) of section 2967.14 of the Revised Code, or shall be confined in a residence the department has approved for this purpose and be monitored pursuant to an electronic monitoring device, as defined in section 2929.01 of the Revised Code. If the department establishes a transitional control program under this division, the rules establishing the program shall include criteria that define which prisoners are eligible for the program, criteria that must be satisfied to be approved as a residence that may be used for confinement under the program of a prisoner that is transferred to it and procedures for the department to approve residences that satisfy those criteria, and provisions of the type described in division (C) of this section. At a minimum, the criteria that define which prisoners are eligible for the program shall provide all of the following:

(a) That a prisoner is eligible for the program if the prisoner is serving a prison term or term of imprisonment for an offense committed prior to March 17, 1998, and if, at the time at which eligibility is being determined, the prisoner would have been eligible for a furlough under this section as it existed immediately prior to March 17, 1998, or would have been eligible for conditional release under former section 2967.23 of the Revised Code as that section existed immediately prior to March 17, 1998;

(b) That no prisoner who is serving a mandatory prison term is eligible for the program until after expiration of the

mandatory term;

(c) That no prisoner who is serving a prison term or term of life imprisonment without parole imposed pursuant to section 2971.03 of the Revised Code is eligible for the program.

(2) At least three weeks prior to transferring to transitional control under this section a prisoner who is serving a term of imprisonment or prison term for an offense committed on or after July 1, 1996, the ~~adult~~ division of parole ~~authority~~ and community services of the department of rehabilitation and correction shall give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the indictment against the prisoner was found and of the fact that the court may disapprove the transfer of the prisoner to transitional control and shall include a report prepared by the head of the state correctional institution in which the prisoner is confined. The head of the state correctional institution in which the prisoner is confined, upon the request of the adult parole authority, shall provide to the authority for inclusion in the notice sent to the court under this division a report on the prisoner's conduct in the institution and in any institution from which the prisoner may have been transferred. The report shall cover the prisoner's participation in school, vocational training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the prisoner. If the court disapproves of the transfer of the prisoner to transitional control, the court shall notify the authority of the disapproval within thirty days after receipt of the notice. If the court timely disapproves the transfer of the prisoner to transitional control, the authority shall not proceed with the transfer. If the court does not timely disapprove the transfer of the prisoner to transitional control, the authority may transfer the prisoner to transitional control.

(3) If the victim of an offense for which a prisoner was sentenced to a prison term or term of imprisonment has requested notification under section 2930.16 of the Revised Code and has provided the department of rehabilitation and correction with the victim's name and address, the adult parole authority, at least three weeks prior to transferring the prisoner to transitional control pursuant to this section, shall notify the victim of the pendency of the transfer and of the victim's right to submit a statement to the authority regarding the impact of the transfer of the prisoner to transitional control. If the victim subsequently submits a statement of that nature to the authority, the authority shall consider the statement in deciding whether to transfer the prisoner to transitional control.

(4) The department of rehabilitation and correction, at least three weeks prior to transferring a prisoner to transitional control pursuant to this section, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the prisoner's name and all of the information specified in division (A)(1)(c)(iv) of that section. In addition to and independent of the right of a victim to submit a statement as described in division (A)(3) of this section or to otherwise make a statement and in addition to and independent of any other right or duty of a person to present information or make a statement, any person may send to the adult parole authority at any time prior to the authority's transfer of the prisoner to transitional control a written statement regarding the transfer of the prisoner to transitional control. In addition to the information, reports, and statements it considers under divisions (A)(2) and (3) of this section or that it otherwise considers, the authority shall consider each statement submitted in accordance with this division in deciding whether to transfer the prisoner to transitional control.

(B) Each prisoner transferred to transitional control under this section shall be confined in the manner described in division (A) of this section during any period of time that the prisoner is not actually working at the prisoner's approved employment, engaged in a vocational training or another educational program, engaged in another program designated by the director, or engaged in other activities approved by the department.

(C) The department of rehabilitation and correction shall adopt rules for transferring eligible prisoners to transitional control, supervising and confining prisoners so transferred, administering the transitional control program in accordance with this section, and using the moneys deposited into the transitional control fund established under division (E) of this section.

(D) The department of rehabilitation and correction may adopt rules for the issuance of passes for the limited purposes described in this division to prisoners who are transferred to transitional control under this section. If the department adopts rules of that nature, the rules shall govern the granting of the passes and shall provide for the supervision of prisoners who are temporarily released pursuant to one of those passes. Upon the adoption of rules under this division, the department may issue passes to prisoners who are transferred to transitional control status under this section in accordance with the rules and the provisions of this division. All passes issued under this division shall be for a maximum of forty-eight hours and may be issued only for the following purposes:

(1) To visit a relative in imminent danger of death;

(2) To have a private viewing of the body of a deceased relative;

(3) To visit with family;

(4) To otherwise aid in the rehabilitation of the prisoner.

(E) The adult parole authority may require a prisoner who is transferred to transitional control to pay to the division of parole and community services the reasonable expenses incurred by the division in supervising or confining the prisoner while under transitional control. Inability to pay those reasonable expenses shall not be grounds for refusing to transfer an otherwise eligible prisoner to transitional control. Amounts received by the division of parole and community services under this division shall be deposited into the transitional control fund, which is hereby created in the state treasury and which hereby replaces and succeeds the furlough services fund that formerly existed in the state treasury. All moneys that remain in the furlough services fund on March 17, 1998, shall be transferred on that date to the transitional control fund. The transitional control fund shall be used solely to pay costs related to the operation of the transitional control program established under this section. The director of rehabilitation and correction shall adopt rules in accordance with section 111.15 of the Revised Code for the use of the fund.

(F) A prisoner who violates any rule established by the department of rehabilitation and correction under division (A), (C), or (D) of this section may be transferred to a state correctional institution pursuant to rules adopted under division (A), (C), or (D) of this section, but the prisoner shall receive credit towards completing the prisoner's sentence for the time spent under transitional control.

If a prisoner is transferred to transitional control under this section, upon successful completion of the period of transitional control, the prisoner may be released on parole or under post-release control pursuant to section 2967.13 or 2967.28 of the Revised Code and rules adopted by the department of rehabilitation and correction. If the prisoner is released under

post-release control, the duration of the post-release control, the type of post-release control sanctions that may be imposed, the enforcement of the sanctions, and the treatment of prisoners who violate any sanction applicable to the prisoner are governed by section 2967.28 of the Revised Code.

Sec. 2967.28. (A) As used in this section:

(1) "Monitored time" means the monitored time sanction specified in section 2929.17 of the Revised Code.

(2) "Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(3) "Felony sex offense" means a violation of a section contained in Chapter 2907. of the Revised Code that is a felony.

(4) "Risk reduction sentence" means a prison term imposed by a court, when the court recommends pursuant to section 2929.143 of the Revised Code that the offender serve the sentence under section 5120.036 of the Revised Code, and the offender may potentially be released from imprisonment prior to the expiration of the prison term if the offender successfully completes all assessment and treatment or programming required by the department of rehabilitation and correction under section 5120.036 of the Revised Code.

(B) Each sentence to a prison term for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person shall include a requirement that the offender be subject to a period of post-release control imposed by the parole board after the offender's release from imprisonment. This division applies with respect to all prison terms of a type described in this division,

including a term of any such type that is a risk reduction sentence. If a court imposes a sentence including a prison term of a type described in this division on or after July 11, 2006, the failure of a sentencing court to notify the offender pursuant to division (B)(2)(c) of section 2929.19 of the Revised Code of this requirement or to include in the judgment of conviction entered on the journal a statement that the offender's sentence includes this requirement does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under this division. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to notify the offender pursuant to division (B)(2)(c) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (D)(1) of section 2929.14 of the Revised Code a statement regarding post-release control. Unless reduced by the parole board pursuant to division (D) of this section when authorized under that division, a period of post-release control required by this division for an offender shall be of one of the following periods:

(1) For a felony of the first degree or for a felony sex offense, five years;

(2) For a felony of the second degree that is not a felony sex offense, three years;

(3) For a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened physical harm to a person, three years.

(C) Any sentence to a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (B)(1) or (3) of this section shall include a requirement that the offender be subject to a period of post-release control of up to three

years after the offender's release from imprisonment, if the parole board, in accordance with division (D) of this section, determines that a period of post-release control is necessary for that offender. This division applies with respect to all prison terms of a type described in this division, including a term of any such type that is a risk reduction sentence. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to notify the offender pursuant to division (B)(2)(d) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (D)(2) of section 2929.14 of the Revised Code a statement regarding post-release control. Pursuant to an agreement entered into under section 2967.29 of the Revised Code, a court of common pleas or parole board may impose sanctions or conditions on an offender who is placed on post-release control under this division.

(D)(1) Before the prisoner is released from imprisonment, the parole board or, pursuant to an agreement under section 2967.29 of the Revised Code, the court shall impose upon a prisoner described in division (B) of this section, shall impose upon a prisoner described in division (C) of this section who is to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, may impose upon a prisoner described in division (C) of this section who is not to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, and shall impose upon a prisoner described in division (B)(2)(b) of section 5120.031 or in division (B)(1) of section 5120.032 of the Revised Code, one or more post-release control sanctions to apply during the prisoner's period of post-release control. Whenever the board or court imposes one or more post-release control sanctions upon a prisoner, the board or

court, in addition to imposing the sanctions, also shall include as a condition of the post-release control that the offender not leave the state without permission of the court or the offender's parole or probation officer and that the offender abide by the law. The board or court may impose any other conditions of release under a post-release control sanction that the board or court considers appropriate, and the conditions of release may include any community residential sanction, community nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code. Prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole board or court shall review the prisoner's criminal history, results from the single validated risk assessment tool selected by the department of rehabilitation and correction under section 5120.114 of the Revised Code, all juvenile court adjudications finding the prisoner, while a juvenile, to be a delinquent child, and the record of the prisoner's conduct while imprisoned. The parole board or court shall consider any recommendation regarding post-release control sanctions for the prisoner made by the office of victims' services. After considering those materials, the board or court shall determine, for a prisoner described in division (B) of this section, division (B)(2)(b) of section 5120.031, or division (B)(1) of section 5120.032 of the Revised Code and for a prisoner described in division (C) of this section who is to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances or, for a prisoner described in division (C) of this section who is not to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, whether a post-release control sanction is necessary and, if so,

which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances. In the case of a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, the board or court shall presume that monitored time is the appropriate post-release control sanction unless the board or court determines that a more restrictive sanction is warranted. A post-release control sanction imposed under this division takes effect upon the prisoner's release from imprisonment.

Regardless of whether the prisoner was sentenced to the prison term prior to, on, or after July 11, 2006, prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole board shall notify the prisoner that, if the prisoner violates any sanction so imposed or any condition of post-release control described in division (B) of section 2967.131 of the Revised Code that is imposed on the prisoner, the parole board may impose a prison term of up to one-half of the stated prison term originally imposed upon the prisoner.

(2) If a prisoner who is placed on post-release control under this section is released before the expiration of the prisoner's stated prison term by reason of credit earned under section 2967.193 of the Revised Code and if the prisoner earned sixty or more days of credit, the adult parole authority shall supervise the offender with an active global positioning system device for the first fourteen days after the offender's release from imprisonment. This division does not prohibit or limit the imposition of any post-release control sanction otherwise authorized by this section.

(3) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority or,

pursuant to an agreement under section 2967.29 of the Revised Code, the court may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority or court may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. The authority also may recommend that the parole board or court increase or reduce the duration of the period of post-release control imposed by the court. If the authority recommends that the board or court increase the duration of post-release control, the board or court shall review the releasee's behavior and may increase the duration of the period of post-release control imposed by the court up to eight years. If the authority recommends that the board or court reduce the duration of control for an offense described in division (B) or (C) of this section, the board or court shall review the releasee's behavior and may reduce the duration of the period of control imposed by the court. In no case shall the board or court reduce the duration of the period of control imposed for an offense described in division (B)(1) of this section to a period less than the length of the stated prison term originally imposed, and in no case shall the board or court permit the releasee to leave the state without permission of the court or the releasee's parole or probation officer.

(E) The department of rehabilitation and correction, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish standards for the imposition by the parole board of post-release control sanctions under this section that are consistent with the overriding purposes and sentencing principles set forth in section 2929.11 of the Revised Code and

that are appropriate to the needs of releasees;

(2) Establish standards that provide for a period of post-release control of up to three years for all prisoners described in division (C) of this section who are to be released before the expiration of their stated prison term under a risk reduction sentence and standards by which the parole board can determine which prisoners described in division (C) of this section who are not to be released before the expiration of their stated prison term under a risk reduction sentence should be placed under a period of post-release control;

(3) Establish standards to be used by the parole board in reducing the duration of the period of post-release control imposed by the court when authorized under division (D) of this section, in imposing a more restrictive post-release control sanction than monitored time upon a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, or in imposing a less restrictive control sanction upon a releasee based on the releasee's activities including, but not limited to, remaining free from criminal activity and from the abuse of alcohol or other drugs, successfully participating in approved rehabilitation programs, maintaining employment, and paying restitution to the victim or meeting the terms of other financial sanctions;

(4) Establish standards to be used by the adult parole authority in modifying a releasee's post-release control sanctions pursuant to division (D)(2) of this section;

(5) Establish standards to be used by the adult parole authority or parole board in imposing further sanctions under division (F) of this section on releasees who violate post-release control sanctions, including standards that do the following:

(a) Classify violations according to the degree of

seriousness;

(b) Define the circumstances under which formal action by the parole board is warranted;

(c) Govern the use of evidence at violation hearings;

(d) Ensure procedural due process to an alleged violator;

(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;

(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.

(F)(1) Whenever the parole board imposes one or more post-release control sanctions upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the field services section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.

(2) If the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section

2967.131 of the Revised Code imposed upon the releasee and that a more restrictive sanction is appropriate, the authority or court may impose a more restrictive sanction upon the releasee, in accordance with the standards established under division (E) of this section or in accordance with the agreement made under section 2967.29 of the Revised Code, or may report the violation to the parole board for a hearing pursuant to division (F)(3) of this section. The authority or court may not, pursuant to this division, increase the duration of the releasee's post-release control or impose as a post-release control sanction a residential sanction that includes a prison term, but the authority or court may impose on the releasee any other residential sanction, nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code.

(3) The parole board or, pursuant to an agreement under section 2967.29 of the Revised Code, the court may hold a hearing on any alleged violation by a releasee of a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed upon the releasee. If after the hearing the board or court finds that the releasee violated the sanction or condition, the board or court may increase the duration of the releasee's post-release control up to the maximum duration authorized by division (B) or (C) of this section or impose a more restrictive post-release control sanction. When appropriate, the board or court may impose as a post-release control sanction a residential sanction that includes a prison term. The board or court shall consider a prison term as a post-release control sanction imposed for a violation of post-release control when the violation involves a deadly weapon or dangerous ordnance, physical harm or attempted serious physical harm to a person, or sexual misconduct, or when the releasee committed repeated violations of post-release control sanctions.

Unless a releasee's stated prison term was reduced pursuant to section 5120.032 of the Revised Code, the period of a prison term that is imposed as a post-release control sanction under this division shall not exceed nine months, and the maximum cumulative prison term for all violations under this division shall not exceed one-half of the stated prison term originally imposed upon the offender as part of this sentence. If a releasee's stated prison term was reduced pursuant to section 5120.032 of the Revised Code, the period of a prison term that is imposed as a post-release control sanction under this division and the maximum cumulative prison term for all violations under this division shall not exceed the period of time not served in prison under the sentence imposed by the court. The period of a prison term that is imposed as a post-release control sanction under this division shall not count as, or be credited toward, the remaining period of post-release control.

If an offender is imprisoned for a felony committed while under post-release control supervision and is again released on post-release control for a period of time determined by division (F)(4)(d) of this section, the maximum cumulative prison term for all violations under this division shall not exceed one-half of the total stated prison terms of the earlier felony, reduced by any prison term administratively imposed by the parole board or court, plus one-half of the total stated prison term of the new felony.

(4) Any period of post-release control shall commence upon an offender's actual release from prison. If an offender is serving an indefinite prison term or a life sentence in addition to a stated prison term, the offender shall serve the period of post-release control in the following manner:

(a) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole

under a life sentence or an indefinite sentence, and if the period of post-release control ends prior to the period of parole, the offender shall be supervised on parole. The offender shall receive credit for post-release control supervision during the period of parole. The offender is not eligible for final release under section 2967.16 of the Revised Code until the post-release control period otherwise would have ended.

(b) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under an indefinite sentence, and if the period of parole ends prior to the period of post-release control, the offender shall be supervised on post-release control. The requirements of parole supervision shall be satisfied during the post-release control period.

(c) If an offender is subject to more than one period of post-release control, the period of post-release control for all of the sentences shall be the period of post-release control that expires last, as determined by the parole board or court. Periods of post-release control shall be served concurrently and shall not be imposed consecutively to each other.

(d) The period of post-release control for a releasee who commits a felony while under post-release control for an earlier felony shall be the longer of the period of post-release control specified for the new felony under division (B) or (C) of this section or the time remaining under the period of post-release control imposed for the earlier felony as determined by the parole board or court.

Sec. 2981.11. (A)(1) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of a law enforcement agency shall be kept safely by the agency,

pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to sections 2981.12 and 2981.13 of the Revised Code.

(2) This chapter does not apply to the custody and disposal of any of the following:

(a) Vehicles subject to forfeiture under Title XLV of the Revised Code, except as provided in division (A)(6) of section 2981.12 of the Revised Code;

(b) Abandoned junk motor vehicles or other property of negligible value;

(c) Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value;

(d) Animals taken, and devices used in unlawfully taking animals, under section 1531.20 of the Revised Code;

(e) Controlled substances sold by a peace officer in the performance of the officer's official duties under section 3719.141 of the Revised Code;

(f) Property recovered by a township law enforcement agency under sections 505.105 to 505.109 of the Revised Code;

(g) Property held and disposed of under an ordinance of the municipal corporation or under sections 737.29 to 737.33 of the Revised Code, except that a municipal corporation that has received notice of a citizens' reward program as provided in division (F) of section 2981.12 of the Revised Code and disposes of property under an ordinance shall pay twenty-five per cent of any moneys acquired from any sale or auction to the citizens' reward program.

(B)(1) Each law enforcement agency that has custody of any

property that is subject to this section shall adopt and comply with a written internal control policy that does all of the following:

(a) Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired;

(b) Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following:

(i) The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.

(ii) The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

(c) Complies with section 2981.13 of the Revised Code if the agency has a law enforcement trust fund or similar fund created under that section.

(2) ~~Each law enforcement agency that during any calendar year has any seized or forfeited property covered by this section in its custody, including amounts distributed under section 2981.13 of the Revised Code to its law enforcement trust fund or a similar fund created for the state highway patrol, department of public safety, department of taxation, or state board of pharmacy, shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public records kept by the~~

~~agency pursuant to this section for that calendar year. The agency shall send a copy of the cumulative report to the attorney general not later than the first day of March in the calendar year following the calendar year covered by the report.~~

~~(3)~~ The records kept under the internal control policy shall be open to public inspection during the agency's regular business hours. The policy adopted under this section ~~and each report received by the attorney general~~ is a public record open for inspection under section 149.43 of the Revised Code.

~~(4) Not later than the fifteenth day of April in each calendar year in which reports are sent to the attorney general under division (B)(2) of this section, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notice that indicates that the attorney general received reports that cover the previous calendar year, that the reports are open for inspection under section 149.43 of the Revised Code, and that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.~~

(C) A law enforcement agency with custody of property to be disposed of under section 2981.12 or 2981.13 of the Revised Code shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise in a newspaper of general circulation in the county and to briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.

(D) As used in sections 2981.11 to 2981.13 of the Revised Code:

(1) "Citizens' reward program" has the same meaning as in section 9.92 of the Revised Code.

(2) "Law enforcement agency" includes correctional institutions.

(3) "Township law enforcement agency" means an organized police department of a township, a township police district, a joint police district, or the office of a township constable.

Sec. 2981.14. (A) Nothing in this chapter precludes the head of a law enforcement agency that seizes property from seeking forfeiture under federal law. If the property is forfeitable under this chapter and federal forfeiture is not sought, the property is subject only to this chapter.

(B) Any law enforcement agency that receives moneys from a sale of forfeited property under federal law shall deposit, use, and account for the amounts, including any interest derived, in accordance with applicable federal law. If the state highway patrol or the investigative unit of the department of public safety receives such federal forfeiture moneys, the appropriate official shall deposit all interest or other earnings derived from the investment of the moneys into the ~~contraband, forfeiture, and other fund of the~~ highway patrol treasury contraband fund, the highway patrol justice contraband fund, the investigative unit treasury contraband fund, or the ~~department~~ investigative unit justice contraband fund, whichever is appropriate.

(C) There is hereby created in the state treasury the highway patrol treasury contraband fund, the highway patrol justice contraband fund, the investigative unit treasury contraband fund, and the investigative unit justice contraband fund. Each fund shall consist of moneys received under division (B) of this section and shall be used in accordance with any federal or other requirements associated with moneys received.

Sec. 3109.14. (A) As used in this section, "birth record" and "certification of birth" have the meanings given in section 3705.01 of the Revised Code.

(B)(1) The director of health, a person authorized by the director, a local commissioner of health, or a local registrar of vital statistics shall charge and collect a fee for each certified copy of a birth record, for each certification of birth, and for each copy of a death record. The fee shall be three dollars. The fee is in addition to the fee imposed by section 3705.24 or any other section of the Revised Code. A local commissioner of health or a local registrar of vital statistics may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the ~~treasurer of state~~ department of health. ~~The~~

The additional fees collected by the director of health or a person authorized by the director and the additional fees collected~~,~~ but not retained~~, under division (B)(1) of this section~~ by a local commissioner of health or a local registrar of vital statistics shall be forwarded to the ~~treasurer of state~~ department of health not later than thirty days following the end of each quarter. Not later than two days after the fees are forwarded to the department each quarter, the department shall pay the collected fees to the treasurer of state in accordance with rules adopted by the treasurer of state under section 113.08 of the Revised Code.

(2) Upon the filing for a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, a court of common pleas shall charge and collect a fee. The fee shall be eleven dollars. The fee is in addition to any other court costs or fees. The county clerk of courts may

retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the treasurer of state. The additional fees collected, but not retained, under division (B)(2) of this section shall be forwarded to the treasurer of state not later than twenty days following the end of each month.

(C) The treasurer of state shall deposit the fees paid or forwarded under this section in the state treasury to the credit of the children's trust fund, which is hereby created. A person or government entity that fails to forward the fees in a timely manner, as determined by the treasurer of state, shall ~~forward~~ send to the treasurer of state, in addition to the fees, a penalty equal to ten per cent of the fees.

The treasurer of state shall invest the moneys in the fund, and all earnings resulting from investment of the fund shall be credited to the fund, except that actual administrative costs incurred by the treasurer of state in administering the fund may be deducted from the earnings resulting from investments. The amount that may be deducted shall not exceed three per cent of the total amount of fees credited to the fund in each fiscal year, except that the children's trust fund board may approve an amount for actual administrative costs exceeding three per cent but not exceeding four per cent of such amount. The balance of the investment earnings shall be credited to the fund. Moneys credited to the fund shall be used only for the purposes described in sections 3109.13 to 3109.18 of the Revised Code.

Sec. 3125.41. (A) As used in this section:

(1) "Cable television service" has the same meaning as in section 2913.01 of the Revised Code.

(2) "Public utility" means a person or entity, including an

entity owned or operated by a municipal corporation or other government entity, that is described in ~~division (A) of~~ section 4905.03 of the Revised Code as a telephone company, electric light company, gas company, natural gas company, water-works company, heating or cooling company, or sewage disposal system company, or that is providing cable television service.

(B) Except as provided in section 3125.43 of the Revised Code, the office of child support shall have access to all of the following unless release of the information is prohibited by federal or state law:

(1) Any information in the possession of any officer or entity of the state or any political subdivision of the state that would aid the office in locating an absent parent or child pursuant to section 3125.06 of the Revised Code;

(2) Any information concerning the employment, compensation, and benefits of any obligor or obligee subject to a support order in the possession of any person;

(3) The name and address of any obligor or obligee subject to a support order and the obligor's or obligee's employer in the customer records of a public utility.

Sec. 3301.55. (A) A school district, county DD board, or eligible nonpublic school operating a preschool program shall house the program in buildings that meet the following requirements:

(1) The building is operated by the district, county DD board, or eligible nonpublic school and has been approved by the division of ~~labor~~ industrial compliance in the department of commerce or a certified municipal, township, or county building department for the purpose of operating a program for preschool children. Any such structure shall be constructed, equipped,

repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. and with rules adopted by the board of building standards under Chapter 3781. of the Revised Code for the safety and sanitation of structures erected for this purpose.

(2) The building is in compliance with fire and safety laws and regulations as evidenced by reports of annual school fire and safety inspections as conducted by appropriate local authorities.

(3) The school is in compliance with rules established by the state board of education regarding school food services.

(4) The facility includes not less than thirty-five square feet of indoor space for each child in the program. Safe play space, including both indoor and outdoor play space, totaling not less than sixty square feet for each child using the space at any one time, shall be regularly available and scheduled for use.

(5) First aid facilities and space for temporary placement or isolation of injured or ill children are provided.

(B) Each school district, county DD board, or eligible nonpublic school that operates, or proposes to operate, a preschool program shall submit a building plan including all information specified by the state board of education to the board not later than the first day of September of the school year in which the program is to be initiated. The board shall determine whether the buildings meet the requirements of this section and section 3301.53 of the Revised Code, and notify the superintendent of its determination. If the board determines, on the basis of the building plan or any other information, that the buildings do not meet those requirements, it shall cause the buildings to be inspected by the department of education. The department shall make a report to the superintendent specifying any aspects of the building that are not in compliance with the requirements of this

section and section 3301.53 of the Revised Code and the time period that will be allowed the district, county DD board, or school to meet the requirements.

Sec. 3304.16. In carrying out the purposes of sections 3304.11 to 3304.27 of the Revised Code, the rehabilitation services commission:

(A) Shall develop all necessary rules, including rules establishing a fee schedule for vocational rehabilitation services in accordance with 34 C.F.R. 361.50;

(B) Shall prepare and submit to the governor annual reports of activities and expenditures and, prior to each first regular session of the general assembly, an estimate of sums required to carry out the commission's responsibilities;

(C) Shall certify any disbursement of funds available to the commission for vocational rehabilitation activities;

(D) Shall serve as the sole state agency designated to administer the plan under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended;

(E) Shall take appropriate action to guarantee rights of and services to handicapped persons;

(F) Shall consult with and advise other state agencies to assist them in meeting the needs of handicapped persons more effectively and to achieve maximum coordination among programs for the handicapped;

(G) Shall establish an administrative division of consumer affairs and advocacy within the commission to promote and help guarantee the rights of handicapped persons;

(H) Shall maintain an inventory of state services that are available to handicapped persons;

(I) Shall utilize, support, assist, and cooperate with the governor's committee on employment of the handicapped;

(J) May delegate to any officer or employee of the commission any necessary powers and duties;

(K) May take any other necessary or appropriate action for cooperation with public and private agencies and organizations which may include:

(1) Reciprocal agreements with other states to provide for the vocational rehabilitation of individuals within the states concerned;

(2) Contracts or other arrangements with public and other nonprofit agencies and organizations for the construction or establishment and operation of vocational rehabilitation programs and facilities;

(3) Cooperative arrangements with the federal government for carrying out sections 3304.11 to 3304.27 of the Revised Code, the "Vocational Rehabilitation Act," 41 Stat. 735 (1920), 29 U.S.C. 31, as amended, or other federal statutes pertaining to vocational rehabilitation, and to this end, may adopt plans and methods of administration found necessary by the federal government for the efficient operation of any joint arrangements or the efficient application of any federal statutes;

(4) Upon the designation of the governor, performing functions and services for the federal government relating to individuals under a physical or mental disability.

(L) ~~Shall comply with~~ May take any ~~requirements~~ appropriate action necessary to obtain federal funds in the maximum amount and most advantageous proportion possible~~.~~;

(M) May conduct research and demonstration projects, including inquiries concerning the causes of blindness and its

prevention, provide training and instruction, including the establishment and maintenance of research fellowships and traineeships along with all necessary stipends and allowances, disseminate information, and provide technical assistance relating to vocational rehabilitation;

(N) May plan, establish, and operate programs, facilities, and services relating to vocational rehabilitation;

(O) May accept and hold, invest, reinvest, or otherwise use gifts made for the purpose of furthering vocational rehabilitation;

(P) May ameliorate the condition of the aged blind or other severely disabled individuals by establishing a program of home visitation by commission employees for the purpose of instruction;

(Q) May establish and manage small business enterprises that are operated by persons with a substantial handicap to employment, including blind persons;

(R) May purchase from insurance companies licensed to do business in this state any insurance deemed necessary by the commission for the efficient operation of a suitable vending facility as defined in division (A) of section 3304.28 of the Revised Code;

(S) May accept directly from any state agency, and any state agency may transfer directly to the commission, surplus computers and computer equipment to be used for any purposes the commission considers appropriate, notwithstanding sections 125.12 to 125.14 of the Revised Code.

Sec. 3304.181. If the total of all funds available from nonfederal sources to support the activities of the rehabilitation services commission does not comply with the expenditure requirements of 34 C.F.R. 361.60 and 361.62 for those activities

or would cause the state to lose an allotment or fail to receive a reallotment under 34 C.F.R. 361.65, the commission ~~shall~~ may solicit additional funds from, and enter into agreements for the use of those funds with, private or public entities, including local government entities of this state. The commission ~~shall~~ may continue to solicit additional funds and enter into agreements until the total funding available is sufficient for the commission to receive federal funds at the maximum amount and in the most advantageous proportion possible.

Any agreement entered into between the commission and a private or public entity to provide funds under this section shall be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the Revised Code.

Sec. 3304.182. Any agreement between the rehabilitation services commission and a private or public entity providing funds under section 3304.181 of the Revised Code may permit the commission to receive a specified percentage of the funds, but the percentage shall be not more than twenty-five per cent of the total funds available under the agreement. ~~The agreement shall not be for less than six months or be discontinued by the commission without the commission first providing three months notice of intent to discontinue the agreement.~~ The commission may terminate an agreement ~~only~~ at any time for ~~good~~ just cause. It may terminate an agreement for any other reason by giving at least thirty days' notice to the public or private entity.

Any services provided under an agreement entered into under section 3304.181 of the Revised Code shall be provided by a person or government entity that meets the accreditation standards established in rules adopted by the commission under section 3304.16 of the Revised Code.

Sec. 3305.01. As used in this chapter:

(A) "Public institution of higher education" means a state university as defined in section 3345.011 of the Revised Code, the northeast Ohio medical university, or a university branch, technical college, state community college, community college, or municipal university established or operating under Chapter 3345., 3349., 3354., 3355., 3357., or 3358. of the Revised Code.

(B) "State retirement system" means the public employees retirement system created under Chapter 145. of the Revised Code, the state teachers retirement system created under Chapter 3307. of the Revised Code, or the school employees retirement system created under Chapter 3309. of the Revised Code.

(C) "Eligible employee" means any person employed as a full-time employee of a public institution of higher education.

In all cases of doubt, the board of trustees of the public institution of higher education shall determine whether any person is an eligible employee for purposes of this chapter, and the board's decision shall be final.

(D) "Electing employee" means any eligible employee who elects, pursuant to section 3305.05 or 3305.051 of the Revised Code, to participate in an alternative retirement plan provided pursuant to this chapter or an eligible employee who is required to participate in an alternative retirement plan pursuant to division (C)~~(4)~~(3) of section 3305.05 or division (F) of section 3305.051 of the Revised Code.

(E) "Compensation," for purposes of an electing employee, has the same meaning as the applicable one of the following:

(1) If the electing employee would be subject to Chapter 145. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "earnable

salary" as defined in division (R) of section 145.01 of the Revised Code;

(2) If the electing employee would be subject to Chapter 3307. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "compensation" as defined in division (L) of section 3307.01 of the Revised Code;

(3) If the electing employee would be subject to Chapter 3309. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "compensation" as defined in division (V) of section 3309.01 of the Revised Code.

(F) "~~Provider~~ Vendor" means an entity designated under section 3305.03 of the Revised Code as eligible to be a provider of investment options for an alternative retirement plan.

(G) "Provider" means, with respect to each public institution of higher education, a vendor that has entered into an agreement with that public institution of higher education in accordance with section 3305.04 of the Revised Code.

Sec. 3305.02. An alternative retirement program is hereby established in accordance with this chapter for the purpose of providing to eligible employees the opportunity of participating in an alternative retirement plan as an alternative to participating in a state retirement system. The employer is the sponsor of each alternative retirement plan offered under this chapter.

Each alternative retirement plan offered under this program shall be a defined contribution plan qualified under section 401 (a) of the Internal Revenue Code that provides retirement and, to the extent applicable, death benefits through investment options.

The options shall be offered to electing employees pursuant to trust or custodial accounts or pursuant to group or individual annuity contracts~~,~~ and certificates issued under group contracts~~,~~ ~~and~~. The options may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment, at the option of each electing employee.

Notwithstanding this chapter, any retirement plan established by a public institution of higher education prior to March 31, 1997, as an alternative to participating in any state retirement system may continue in effect and be modified without regard to this chapter for all employees at the public institution eligible to participate in the plan.

Sec. 3305.03. (A) The ~~department of insurance~~ Ohio board of regents shall designate ~~three or more~~ the entities that are eligible to provide investment options under alternative retirement plans ~~established~~ maintained by public institutions of higher education ~~in accordance with this chapter. An entity shall be designated a provider under this section if the entity meets~~. The board shall accept and review applications from entities seeking designation as a vendor. The board shall not designate an entity as a vendor unless the entity meets the requirements described in division (B) of this section.

(B) To be eligible for designation as a vendor, an entity must meet both of the following requirements:

(1) ~~It is~~ The entity must be authorized to conduct business in this state with regard to the investment options to be offered under an alternative retirement plan~~;~~ maintained by a public institution of higher education.

(2) ~~It provides~~ The entity must offer the same or similar investment options ~~to be offered~~ under alternative retirement

plans, ~~as group or individual contracts, or a combination thereof,~~ optional retirement plans, or similar types of plans with respect to which all of the following apply:

(a) The plans are defined contribution plans that are qualified plans under Internal Revenue Code 401(a) or 403(b).

(b) The plans are maintained by institutions of higher education in at least ten other states.

~~(B)~~(c) The plans are established as primary retirement plans that are alternatives to or a component of the applicable state retirement system.

(C) In ~~designating a provider under this section~~ determining whether to designate an entity as a vendor, the ~~department of insurance~~ board of regents shall identify, consider, and evaluate all of the following:

(1) The experience of the ~~provider~~ entity in providing in other states investment options under alternative retirement ~~programs in other states~~ plans, optional retirement plans, or similar types of plans that meet the requirements of division (B)(2) of this section;

(2) The potential effectiveness of the ~~provider~~ entity in recruiting eligible employees to ~~enter into contracts~~ select that entity for purposes of participating in an alternative retirement plan and in retaining those ~~contracts~~ employees' accounts;

(3) Whether the entity intends to offer a broad range of investment options to the electing employees;

(4) The suitability of the investment options to the needs and interests of the electing employees and their beneficiaries;

(5) The capability of the entity to offer sufficient information to the electing employees and their beneficiaries to make informed decisions with regard to investment options offered

by the entity;

(6) The capability of the entity to perform in a manner that is in the best interests of the electing employees and their beneficiaries;

(7) The fees and expenses associated with the entity's investment options and the manner in which the entity intends to disclose those fees and expenses;

(8) The ~~nature and extent of the~~ rights and benefits to be provided under the investment options;

~~(4) The relationship between the rights and benefits under the investment options and the amount of the contributions made under those options;~~

~~(5) The suitability of the rights and benefits under the investment options to the needs and interests of eligible employees;~~

~~(6)~~(9) The capability of the ~~provider~~ entity to provide the rights and benefits under the investment options;

~~(7)~~(10) Comments submitted by a public institution of higher education under section 3305.031 of the Revised Code;

(11) Any other matters ~~it~~ the board of regents considers relevant.

~~(C)~~(D) The ~~department of insurance~~ board of regents shall ~~periodically review~~ conduct periodic reviews of each ~~provider~~ entity designated ~~under division (A) of this section~~ as a vendor and the investment options being offered to ensure that the requirements and purposes of this chapter are being met. ~~If the department~~ The reviews of a vendor shall occur not less frequently than once every three years.

If it finds that the ~~provider~~ vendor is not in compliance with ~~any requirement~~ the requirements of this chapter or the

~~provider~~ vendor is not satisfactorily meeting the purposes of this chapter, the ~~department may~~ board shall rescind the ~~provider's~~ vendor's designation.

~~(D)~~(E) Notwithstanding sections 125.01 to 125.11 of the Revised Code, designation of a ~~provider~~ vendor or the execution of any ~~contract~~ agreement under this chapter is not subject to competitive bidding under those sections.

Sec. 3305.031. (A) As part of the process established under section 3305.03 of the Revised Code for designating an entity as a vendor and conducting periodic reviews of a vendor, the Ohio board of regents shall do all of the following:

(1) Provide written notice to each public institution of higher education that an entity has applied to be designated as a vendor under section 3305.03 of the Revised Code;

(2) Provide written notice to each public institution of higher education that a vendor is scheduled for a review;

(3) Establish a comment period of not less than thirty days during which a public institution of higher education is authorized to comment about an entity's application for designation or a vendor's review and to request a meeting with the board of regents concerning the application or review;

(4) Not later than fourteen days after the board makes a decision with respect to an application or review, including any rescission of a vendor's designation, provide written notice to each public institution of higher education of the board's decision.

(B) If a meeting is requested by a public institution of higher education under division (A)(3) of this section, the board of regents shall do all of the following:

(1) Notify each public institution of higher education of the

meeting and its time and place;

(2) Hold the meeting not less than ten but not more than thirty days after the end of the comment period;

(3) Continue to accept comments concerning the application or review, as applicable, until five business days after the meeting is held.

(C) The board of regents shall adopt rules under section 3305.032 of the Revised Code specifying the method to be used by public institutions of higher education in submitting comments to the board concerning an application or review.

Sec. 3305.032. The Ohio board of regents shall adopt rules as the board considers necessary to carry out its duties and responsibilities under this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules may provide for fees to be charged providers by the board to cover administrative and marketing expenses of the board.

Sec. 3305.04. (A) The board of trustees of each public institution of higher education shall adopt an alternative retirement plan in accordance with this chapter. ~~Each public institution of higher education shall enter into a contract with each provider designated pursuant to section 3305.03 of the Revised Code that is willing to provide investment options under an alternative retirement plan at that public institution. Each contract shall provide for termination of the contract if the provider ceases to be a designated provider. In~~

In accordance with this chapter, each board may perform such functions and provide as necessary for the administration of its alternative retirement plan.

(B)(1) In implementing the alternative retirement plan established by the board, the public institution of higher

education shall develop agreements to be entered into with entities designated under section 3305.03 of the Revised Code as vendors. Each agreement shall include such terms and conditions as are determined by the public institution of higher education in its sole discretion.

(2) Except as provided in division (B)(3) of this section, the public institution of higher education shall enter into agreements with a minimum of four vendors or, if fewer than four vendors are available, with the number of vendors available.

(3) Division (B)(2) of this section does not require a public institution of higher education to enter into an agreement with a vendor if either of the following is the case:

(a) The vendor is not willing to provide investment options under the alternative retirement plan at that public institution.

(b) The vendor is not willing to agree to the terms and conditions of the agreement.

(4) After an agreement has been entered into, both of the following apply with respect to termination of the agreement with the provider:

(a) The agreement shall be terminated if the provider ceases to be an entity designated as a vendor.

(b) The agreement may be terminated if the provider fails to comply with the terms and conditions of such agreement.

Sec. 3305.05. (A) As used in this section and section 3305.051 of the Revised Code, "academic or administrative employee" means any full-time employee not receiving any benefit, allowance, or other payment granted on the employee's account from a state retirement system who, before ~~the effective date of this section~~ August 1, 2005, met one of the following requirements:

(1) The employee was a member of the faculty of a public

institution of higher education.

(2) The employee was a member of the administrative staff of a public institution of higher education serving in a position in the unclassified civil service pursuant to section 124.11 of the Revised Code.

(3) If section 124.11 of the Revised Code did not apply to the public institution of higher education, the employee was a member of the administrative staff of a public institution of higher education serving in a position comparable to a position in the unclassified civil service.

In all cases of doubt, the board of trustees of the public institution of higher education shall determine whether any person is an academic or administrative employee for purposes of this chapter, and the board's decision shall be final.

(B)(1) Each person who, on ~~the effective date of this section~~ August 1, 2005, is an eligible employee of a public institution of higher education and has accrued less than five years of service credit in a state retirement system may, not later than one hundred twenty days after ~~the effective date of this section~~ August 1, 2005, make an election to participate in an alternative retirement plan available at the employing public institution, unless, prior to ~~the effective date of this section~~ August 1, 2005, the person had an opportunity pursuant to former section 3305.05 of the Revised Code to make such an election as an academic or administrative employee of that public institution of higher education.

(2) An eligible employee whose employment with a public institution of higher education commences on or after ~~the effective date of this section~~ August 1, 2005, may, not later than one hundred twenty days after the starting date of the employment, make an election to participate in an alternative retirement plan

available at the employing public institution.

(3) An eligible employee who, on or after ~~the effective date of this section~~ August 1, 2005, terminates employment at one public institution of higher education and subsequently is employed by another public institution of higher education in a position for which an alternative retirement plan is available may, not later than one hundred twenty days after the starting date of the employment, elect to participate in an alternative retirement plan available at that public institution.

(C)(1) An eligible employee who makes an election under division (B) of this section shall submit the election in writing to the designated officer of the employee's employing public institution of higher education. Once submitted, the election is irrevocable while the eligible employee continues to be employed by the public institution of higher education. Not later than ten days after the election becomes irrevocable, the officer shall file a certified copy of the election with the state retirement system to which, apart from the election, the employee's employment would be subject.

Each public institution of higher education that employs a person eligible to make an election under division (B) of this section shall notify, in writing, ~~within ten days of the person's employment,~~ the state retirement system that applies to that employment in the manner specified by that state retirement system. The notice shall include the person's name and address. The notice shall be given not later than ten days after the first date the person is on the institution's payroll.

(2) Elections made under division (B) of this section take effect as follows:

(a) An election under division (B)(1) of this section is effective as of the date on which the employee's election to

participate in the alternative retirement plan becomes irrevocable.

(b) An election under division (B)(2) or (3) of this section is effective as of the electing employee's starting date of employment.

(3) An eligible employee's election under division (B) of this section applies to the employee's employment in all positions at that public institution, unless the employee terminates employment at the public institution and does not return to employment in any position at that public institution ~~prior to one year~~ for at least three hundred sixty-five days after the date of termination.

(4) An eligible employee who makes an election under division (B) of this section is forever barred from claiming or purchasing service credit under any state retirement system for the period of employment while the election is in effect.

(D)(1) An eligible employee who fails to make an election under division (B) of this section within the one-hundred-twenty day election period shall be deemed to have elected to participate in the state retirement system that applies to the employee's employment.

(2) An eligible employee who fails to make an election under division (B) of this section shall not be permitted to make an election for employment in any other position at the public institution of higher education while employed at that public institution, unless the employee terminates employment at the public institution and does not return to employment in any position at the public institution ~~prior to one year~~ for at least three hundred sixty-five days after the date of termination.

Sec. 3305.053. The board of trustees of a public institution

of higher education shall permit an employee who makes an election under section 3305.05 or 3305.051 of the Revised Code to do all of the following:

(A) Select, from among the providers that have entered into ~~a contract~~ an agreement with the public institution of higher education under section 3305.04 of the Revised Code, the provider of an investment option for that employee;

(B) ~~Except as permitted under division (C) of this section, contract with only one provider in any plan year;~~

~~(C) Change~~ Subject to any terms and conditions established by the public institution of higher education, change the provider selected under division (A) of this section ~~at the following times:~~

~~(1) Once during the first payroll period in any plan year;~~

~~(2) Any time the provider that the employee selected ceases, under division (C) of section 3305.03 of the Revised Code, to be designated~~ any time during the plan year.

~~(D)~~(C) If under division ~~(C)~~(B) of this section an employee changes providers, the employee may direct the provider ~~shall~~ to transfer to the new provider the employee's account balance either in whole or in part, as directed by the employee, except that the provider is not required to immediately transfer any part of the account invested at the employee's election in a fixed annuity account if the contract with the employee under which the investment was made permits the provider to make such a transfer over a period of time not exceeding ten years and the contract was filed with and approved by the department of insurance pursuant to section 3911.011 of the Revised Code.

Sec. 3305.06. (A) Each electing employee shall contribute an amount, which shall be a certain percentage of the employee's

compensation, to the provider of the investment option the employee has selected. This percentage shall be the percentage the electing employee would have otherwise been required to contribute to the state retirement system that applies to the employee's position, except that the percentage shall not be less than three per cent. Employee contributions under this division may be treated as employer contributions in accordance with Internal Revenue Code 414(h).

(B) Each public institution of higher education employing an electing employee shall contribute a percentage of the employee's compensation to the provider of the investment option the employee has selected. This percentage shall be equal to the percentage that the public institution of higher education would otherwise contribute on behalf of that employee to the state retirement system that would otherwise cover that employee's position, less the percentage contributed by the public institution of higher education under division (D) of this section.

(C)(1) In no event shall the amount contributed by the electing employee pursuant to division (A) of this section and on the electing employee's behalf pursuant to division (B) of this section be less than the amount necessary to qualify the plan as a state retirement system pursuant to Internal Revenue Code 3121~~(B)~~(b)(7) and the regulations adopted thereunder.

(2) The full amount of the electing employee's contribution under division (A) of this section and the full amount of the employer's contribution made on behalf of that employee under division (B) of this section shall be paid to the appropriate provider for application to the electing employee's investment option.

(D) Each public institution of higher education employing an electing employee shall contribute on behalf of that employee to

the state retirement system that otherwise applies to the electing employee's position a percentage of the electing employee's compensation to mitigate any negative financial impact of the alternative retirement program on the state retirement system. The percentage shall be six per cent, except that the percentage may be adjusted by the Ohio retirement study council to reflect the determinations made by actuarial studies conducted under section 171.07 of the Revised Code. Any adjustment shall become effective on the first day of the second month following submission of the actuarial study to the Ohio board of regents under section 171.07 of the Revised Code.

Contributions on behalf of an electing employee shall continue in accordance with this division until the occurrence of the following:

(1) If the electing employee would be subject to Chapter 145. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 145.325 or 145.58 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 145.22 of the Revised Code;

(2) If the electing employee would be subject to Chapter 3307. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 3307.39 or 3307.61 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 3307.51 of the Revised Code;

(3) If the electing employee would be subject to Chapter 3309. of the Revised Code had the employee not made an election

pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 3309.375 or 3309.69 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 3309.21 of the Revised Code.

Sec. 3313.65. (A) As used in this section and section 3313.64 of the Revised Code:

(1) A person is "in a residential facility" if the person is a resident or a resident patient of an institution, home, or other residential facility that is:

(a) Licensed as a nursing home, residential care facility, or home for the aging by the director of health under section 3721.02 of the Revised Code;

(b) ~~Licensed as an adult care facility by the director of mental health under sections 5119.70 to 5119.88 of the Revised Code;~~

~~(c)~~ Maintained as a county home or district home by the board of county commissioners or a joint board of county commissioners under Chapter 5155. of the Revised Code;

~~(d)~~(c) Operated or administered by a board of alcohol, drug addiction, and mental health services under section 340.03 or 340.06 of the Revised Code, or provides residential care pursuant to contracts made under section 340.03 or 340.033 of the Revised Code;

~~(e)~~(d) Maintained as a state institution for the mentally ill under Chapter 5119. of the Revised Code;

~~(f)~~(e) Licensed by the department of mental health under section 5119.20 or 5119.22 of the Revised Code;

~~(g)~~(f) Licensed as a residential facility by the department

of developmental disabilities under section 5123.19 of the Revised Code;

~~(h)~~(g) Operated by the veteran's administration or another agency of the United States government;

~~(i)~~(h) Operated by the Ohio veterans' home.

(2) A person is "in a correctional facility" if any of the following apply:

(a) The person is an Ohio resident and is:

(i) Imprisoned, as defined in section 1.05 of the Revised Code;

(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility;

(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional control, or early release from imprisonment, as a condition of shock parole or shock probation granted under the law in effect prior to July 1, 1996, or as a condition of a furlough granted under the version of section 2967.26 of the Revised Code in effect prior to March 17, 1998, to reside in a halfway house or other community residential center licensed under section 2967.14 of the Revised Code or a similar facility designated by the court of common pleas that established the condition or by the adult parole authority.

(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned.

(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the

place the person resided at the time the person became subject to the court's jurisdiction in the matter that resulted in the person's removal.

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

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

(B) If the circumstances described in division (C) of this section apply, the determination of what school district must admit a child to its schools and what district, if any, is liable for tuition shall be made in accordance with this section, rather than section 3313.64 of the Revised Code.

(C) A child who does not reside in the school district in which the child's parent resides and for whom a tuition obligation previously has not been established under division (C)(2) of section 3313.64 of the Revised Code shall be admitted to the schools of the district in which the child resides if at least one of the child's parents is in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, is not known to reside in this state.

(D) Regardless of who has custody or care of the child, whether the child resides in a home, or whether the child receives special education, if a district admits a child under division (C) of this section, tuition shall be paid to that district as follows:

(1) If the child's parent is in a juvenile residential placement, by the district in which the child's parent resided at the time the parent became subject to the jurisdiction of the juvenile court;

(2) If the child's parent is in a correctional facility, by

the district in which the child's parent resided at the time the sentence was imposed;

(3) If the child's parent is in a residential facility, by the district in which the parent resided at the time the parent was admitted to the residential facility, except that if the parent was transferred from another residential facility, tuition shall be paid by the district in which the parent resided at the time the parent was admitted to the facility from which the parent first was transferred;

(4) In the event of a disagreement as to which school district is liable for tuition under division (C)(1), (2), or (3) of this section, the superintendent of public instruction shall determine which district shall pay tuition.

(E) If a child covered by division (D) of this section receives special education in accordance with Chapter 3323. of the Revised Code, the tuition shall be paid in accordance with section 3323.13 or 3323.14 of the Revised Code. Tuition for children who do not receive special education shall be paid in accordance with division (J) of section 3313.64 of the Revised Code.

Sec. 3313.71. School physicians may make examinations, which shall include tests to determine the existence of hearing defects, and diagnoses of all children referred to them. They may make such examination of teachers and other school employees and inspection of school buildings as in their opinion the protection of health of the pupils, teachers, and other school employees requires.

Boards of education shall require and provide, in accordance with section 3313.67 of the Revised Code, such tests and examinations for tuberculosis of pupils in selected grades and of school employees as may be required by the ~~Ohio public~~ director of health ~~council~~.

Boards may require annual tuberculin tests of any grades. All pupils with positive reactions to the test shall have chest x-rays and all positive reactions and x-ray findings shall be reported promptly to the county record bureau of tuberculosis cases provided for in section 339.74 of the Revised Code. Boards shall waive the required test where a pupil presents a written statement from the pupil's family physician certifying that such test has been given and that such pupil is free from tuberculosis in a communicable stage, or that such test is inadvisable for medical reasons, or from the pupil's parent or guardian objecting to such test because of religious convictions.

Whenever a pupil, teacher, or other school employee is found to be ill or suffering from tuberculosis in a communicable stage or other communicable disease, the school physician shall promptly send such pupil, teacher, or other school employee home, with a statement, in the case of a pupil, to the pupil's parents or guardian, briefly setting forth the discovered facts, and advising that the family physician be consulted. School physicians shall keep accurate card-index records of all examinations, and said records, that they may be uniform throughout the state, shall be according to the form prescribed by the state board of education, and the reports shall be made according to the method of said form. If the parent or guardian of any pupil or any teacher or other school employee, after notice from the board of education, furnishes within two weeks thereafter the written certificate of any reputable physician that the pupil, teacher, or other school employee has been examined, in such cases the service of the school physician shall be dispensed with, and such certificate shall be furnished by such parent or guardian, as required by the board of education. Such individual records shall not be open to the public and shall be solely for the use of the boards of education and boards of health officer. If any teacher or other school employee is found to have tuberculosis in a communicable

stage or other communicable disease, the teacher's or employee's employment shall be discontinued or suspended upon such terms as to salary as the board deems just until the school physician has certified to a recovery from such disease. The methods of making the tuberculin tests and chest x-rays required by this section shall be such as are approved by the director of health.

Sec. 3313.976. (A) No private school may receive scholarship payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school is located within the boundaries of the pilot project school district;

(2) The school indicates in writing its commitment to follow all requirements for a state-sponsored scholarship program specified under sections 3313.974 to 3313.979 of the Revised Code, including, but not limited to, the requirements for admitting students pursuant to section 3313.977 of the Revised Code;

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

(4) The school does not discriminate on the basis of race, religion, or ethnic background;

(5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered;

(6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race,

ethnicity, national origin, or religion;

(7) The school does not provide false or misleading information about the school to parents, students, or the general public;

(8) For students in grades kindergarten through eight with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5104.46 of the Revised Code, the school agrees not to charge any tuition ~~to low-income families receiving ninety per cent of the scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code,~~ in excess of ~~ten per cent of~~ the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. ~~The school shall permit any such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.~~

(9) For students in grades kindergarten through eight with family incomes above two hundred per cent of the federal poverty guidelines, whose scholarship amounts are less than the actual tuition charge of the school, the school agrees not to charge any tuition ~~to low-income families receiving a seventy-five per cent scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code,~~ in excess of the difference between the actual tuition charge of the school and ~~seventy-five per cent of~~ the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit such tuition, at the discretion of the parent, to be satisfied by the ~~low-income~~ family's provision of in-kind contributions or services.

(10) The school agrees not to charge any tuition to families

of students in grades nine through twelve receiving a scholarship in excess of the actual tuition charge of the school less ~~seventy-five or ninety per cent of~~ the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, ~~as applicable,~~ excluding any increase described in division (C)(2) of that section.

(11) Notwithstanding division (K) of section 3301.0711 of the Revised Code, the school annually administers the assessments prescribed by section 3301.0710 of the Revised Code to each scholarship student enrolled in the school in accordance with section 3301.0711 of the Revised Code and reports to the department of education the results of each such assessment administered to each scholarship student.

(B) The state superintendent shall revoke the registration of any school if, after a hearing, the superintendent determines that the school is in violation of any of the provisions of division (A) of this section.

(C) Any public school located in a school district adjacent to the pilot project district may receive scholarship payments on behalf of parents pursuant to section 3313.979 of the Revised Code if the superintendent of the district in which such public school is located notifies the state superintendent prior to the first day of March that the district intends to admit students from the pilot project district for the ensuing school year pursuant to section 3327.06 of the Revised Code.

(D) Any parent wishing to purchase tutorial assistance from any person or governmental entity pursuant to the pilot project program under sections 3313.974 to 3313.979 of the Revised Code shall apply to the state superintendent. The state superintendent shall approve providers who appear to possess the capability of furnishing the instructional services they are offering to provide.

Sec. 3313.978. (A) Annually by the first day of November, the superintendent of public instruction shall notify the pilot project school district of the number of initial scholarships that the state superintendent will be awarding in each of grades kindergarten through twelve.

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for the selection of students to receive scholarships from among all those applying prior to the deadline, which criteria shall give preference to students from low-income families. ~~For each student selected, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the scholarship amount. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the scholarship amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the scholarship amount.~~ The state superintendent shall notify students of their selection prior to the fifteenth day of January ~~and whether they qualify for seventy-five or ninety per cent of the scholarship amount~~.

(1) A student receiving a pilot project scholarship may utilize it at an alternative public school by notifying the district superintendent, at any time before the beginning of the school year, of the name of the public school in an adjacent school district to which the student has been accepted pursuant to section 3327.06 of the Revised Code.

(2) A student may decide to utilize a pilot project

scholarship at a registered private school in the district if all of the following conditions are met:

(a) By the fifteenth day of February of the preceding school year, or at any time prior to the start of the school year, the parent makes an application on behalf of the student to a registered private school.

(b) The registered private school notifies the parent and the state superintendent as follows that the student has been admitted:

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A) of section 3313.977 of the Revised Code;

(ii) Within one week of the decision to admit the student if the student is admitted pursuant to division (C) of section 3313.977 of the Revised Code.

(c) The student actually enrolls in the registered private school to which the student was first admitted or in another registered private school in the district or in a public school in an adjacent school district.

(B) The state superintendent shall also award in any school year tutorial assistance grants to a number of students equal to the number of students who receive scholarships under division (A) of this section. Tutorial assistance grants shall be awarded solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project. Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first

day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish. ~~For each student awarded a grant, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the grant amount and so notify the student. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the grant amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the grant amount.~~

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the net tuition charges of the alternative school the scholarship recipient attends or three thousand dollars before fiscal year 2007, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and four thousand two hundred fifty dollars in fiscal year 2012 and thereafter.

In the case of basic scholarships for students in grades nine through twelve, the scholarship amount shall not exceed the lesser of the net tuition charges of the alternative school the scholarship recipient attends or two thousand seven hundred dollars before fiscal year 2007, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and five thousand dollars in fiscal year 2012 and thereafter.

The net tuition and fees charged to a student shall be the tuition amount specified by the alternative school minus all other financial aid, discounts, and adjustments received for the student. In cases where discounts are offered for multiple students from the same family, and not all students in the same

family are scholarship recipients, the net tuition amount attributable to the scholarship recipient shall be the lowest net tuition to which the family is entitled.

(2) The state superintendent shall provide for an increase in the basic scholarship amount in the case of any student who is a mainstreamed student with a disability and shall further increase such amount in the case of any separately educated student with a disability. Such increases shall take into account the instruction, related services, and transportation costs of educating such students.

(3) In the case of tutorial assistance grants, the grant amount shall not exceed the lesser of the provider's actual charges for such assistance or:

(a) Before fiscal year 2007, a percentage established by the state superintendent, not to exceed twenty per cent, of the amount of the pilot project school district's average basic scholarship amount;

(b) In fiscal year 2007 and thereafter, four hundred dollars.

~~(4) No scholarship or tutorial assistance grant shall be awarded unless the state superintendent determines that twenty-five or ten per cent, as applicable, of the amount specified for such scholarship or grant pursuant to division (C)(1), (2), or (3) of this section will be furnished by a political subdivision, a private nonprofit or for profit entity, or another person. Only seventy-five or ninety per cent of such amounts, as applicable, shall be paid from state funds pursuant to section 3313.979 of the Revised Code.~~

(D)(1) Annually by the first day of November, the state superintendent shall estimate the maximum per-pupil scholarship amounts for the ensuing school year. The state superintendent shall make this estimate available to the general public at the

offices of the district board of education together with the forms required by division (D)(2) of this section.

(2) Annually by the fifteenth day of January, the chief administrator of each registered private school located in the pilot project district and the principal of each public school in such district shall complete a parental information form and forward it to the president of the board of education. The parental information form shall be prescribed by the department of education and shall provide information about the grade levels offered, the numbers of students, tuition amounts, achievement test results, and any sectarian or other organizational affiliations.

(E)(1) Only for the purpose of administering the pilot project scholarship program, the department may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any student who is seeking a scholarship under the program:

(a) The school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code;

(b) If applicable, the community school in which the student is enrolled;

(c) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division (E)(1) of this section for the data verification code of a student seeking a scholarship or a request by the student's parent for that code, the school district or community school shall submit that code to the department or parent in the manner specified by the department. If the student has not been assigned a code, because the student will be entering kindergarten during the school year

for which the scholarship is sought, the district shall assign a code to that student and submit the code to the department or parent by a date specified by the department. If the district does not assign a code to the student by the specified date, the department shall assign a code to the student.

The department annually shall submit to each school district the name and data verification code of each student residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law.

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section

3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:

(a) Age;

(b) Race and ethnicity;

(c) Gender;

(d) Students who have participated in the scholarship program for three or more years;

(e) Students who have participated in the scholarship program for more than one year and less than three years;

(f) Students who have participated in the scholarship program for one year or less;

(g) Economically disadvantaged students.

(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.

(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school

district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and socioeconomic status.

Sec. 3313.979. Each scholarship to be used for payments to a registered private school is payable to the parents of the student entitled to the scholarship. Each scholarship to be used for payments to a public school in an adjacent school district is payable to the school district of attendance by the superintendent of public instruction. Each grant to be used for payments to an approved tutorial assistance provider is payable to the approved tutorial assistance provider.

(A)(1) By the fifteenth day of each month of the school year that any scholarship students are enrolled in a registered private school, the chief administrator of that school shall notify the state superintendent of:

(a) The number of scholarship students who were reported to the school district as having been admitted by that private school pursuant to division (A)(2)(b) of section 3313.978 of the Revised Code and who were still enrolled in the private school as of the first day of such month~~, and the numbers of such students who qualify for seventy-five and ninety per cent of the scholarship amount~~;

(b) The number of scholarship students who were reported to the school district as having been admitted by another private school pursuant to division (A)(2)(b) of section 3313.978 of the Revised Code and since the date of admission have transferred to the school providing the notification under division (A)(1) of this section~~, and the numbers of such students who qualify for seventy-five and ninety per cent of the scholarship amount~~.

(2) From time to time, the state superintendent shall make a

payment to the parent of each student entitled to a scholarship. Each payment shall include for each student reported under division (A)(1) of this section~~,~~ a portion of ~~seventy-five or ninety per cent, as applicable, of~~ the scholarship amount specified in divisions (C)(1) and (2) of section 3313.978 of the Revised Code. This amount shall be proportionately reduced in the case of any such student who is not enrolled in a registered private school for the entire school year.

(3) The first payment under this division shall be made by the last day of November and shall equal one-third of ~~seventy-five or ninety per cent, as applicable, of~~ the estimated total amount that will be due to the parent for the school year pursuant to division (A)(2) of this section.

(B) The state superintendent, on behalf of the parents of a scholarship student enrolled in a public school in an adjacent school district pursuant to section 3327.06 of the Revised Code, shall make the tuition payments required by that section to the school district admitting the student, except that, notwithstanding sections 3323.13, 3323.14, and 3327.06 of the Revised Code, the total payments in any school year shall not exceed ~~seventy-five or ninety per cent, as applicable, of~~ the scholarship amount provided in divisions (C)(1) and (2) of section 3313.978 of the Revised Code.

(C) Whenever an approved provider provides tutorial assistance to a student, the state superintendent shall pay the approved provider for such costs upon receipt of a statement specifying the services provided and the costs of the services, which statement shall be signed by the provider and verified by the chief administrator having supervisory control over the tutoring site. The total payments to any approved provider under this division for all provider services to any individual student in any school year shall not exceed ~~seventy-five or ninety per~~

~~cent, as applicable, of~~ the grant amount provided in division (C)(3) of section 3313.978 of the Revised Code.

Sec. 3318.034. (A) This section applies to both of the following:

(1) Any school district that has not executed an agreement for a project under sections 3318.01 to 3318.20 of the Revised Code prior to June 24, 2008;

(2) Any school district that is eligible for additional assistance under sections 3318.01 to 3318.20 of the Revised Code pursuant to division (B)(2) of section 3318.04 of the Revised Code.

Notwithstanding any provision of this chapter to the contrary, with the approval of the Ohio school facilities commission, any school district to which this section applies may opt to divide the district's entire classroom facilities needs, as those needs are jointly determined by the staff of the commission and the school district, into discrete segments and shall comply with all of the provisions of those sections unless otherwise provided in this section.

(B) Except as provided in division (C) of this section, each segment shall comply with all of the following:

(1) The segment shall consist of the new construction of one or more entire buildings or the complete renovation of one or more entire existing buildings, with any necessary additions to that building.

(2) The segment shall not include any construction of or renovation or repair to any building that does not complete the needs of the district with respect to that particular building at the time the segment is completed.

(3) The segment shall consist of new construction,

renovations, additions, reconstruction, or repair of classroom facilities to the extent that the school district portion, as determined under section 3318.032 of the Revised Code, is an amount not less than the product of 0.040 times the district's valuation at the time the agreement for the segment is executed, unless the district previously has undertaken a segment under this section and the district's portion of the estimated basic project cost of the remainder of its entire classroom facilities needs, as determined jointly by the staff of the commission and the district, is less than the amount otherwise required by this division.

(C) A district described in division (A)(2) of this section that has not received the additional assistance authorized under division (B)(2) of section 3318.04 of the Revised Code may undertake a segment, with commission approval, for the purpose of renovating or replacing work performed on a facility under the district's prior project. The commission may approve that segment if the commission determines that the renovation or replacement is necessary to protect the facility. The basic project cost of the segment shall be allocated between the state and the district in accordance with section 3318.032 of the Revised Code. However, the requirements of division (B) of this section shall not apply to a segment undertaken under this division.

(D) The commission shall conditionally approve and seek controlling board approval in accordance with division (A) of section 3318.04 of the Revised Code of each segment.

(E) ~~The school district's maintenance levy requirement, as defined in section 3318.18 of the Revised Code,~~ (1) When undertaking a segment under this section, a school district may elect to prorate its full maintenance amount by setting aside for maintenance the amount calculated under division (E)(2) of this section to maintain the classroom facilities acquired under the

segment, if the district will use one or more of the alternative methods authorized in sections 3318.051, 3318.052, and 3318.084 of the Revised Code to generate the entire amount calculated under that division. If the district so elects, the commission and the district shall include in the agreement entered into under section 3318.08 of the Revised Code a statement specifying that the district will use the amount calculated under that division only to maintain the classroom facilities acquired under the segment.

(2) The commission shall calculate the amount for a school district to maintain the classroom facilities acquired under a segment as follows:

The full maintenance amount X (the school district's portion of the basic project cost for the segment / the school district's portion of the basic project cost for the district's entire classroom facilities needs, as determined jointly by the staff of the commission and the district)

(3) A school district may elect to prorate its full maintenance amount for any number of segments, provided the district will use one or more of the alternative methods authorized in sections 3318.051, 3318.052, and 3318.084 of the Revised Code to generate the entire amount calculated under division (E)(2) of this section to maintain the classroom facilities acquired under each segment for which it so elects. If the district cannot use one or more of those alternative methods to generate the entire amount calculated under that division, the district shall levy the tax described in division (B) of section 3318.05 of the Revised Code or an extension of that tax under section 3318.061 of the Revised Code in an amount necessary to generate the remainder of its full maintenance amount. The commission shall calculate the remainder of the district's full maintenance amount as follows:

The full maintenance amount - the sum of the amounts

calculated for the district under division (E)(2) of this section for each prior segment of the district's project

(4) In no case shall the sum of the amounts calculated for a school district's maintenance of classroom facilities under divisions (E)(2) and (3) of this section exceed the amount that would have been required for maintenance if the district had elected to undertake its project in its entirety instead of segmenting the project under this section.

(5) If a school district commenced a segment under this section prior to the effective date of this amendment but has not completed that segment, and has not levied the tax described in division (B) of section 3318.05 of the Revised Code or an extension of that tax under section 3318.061 of the Revised Code, the district may request approval from the commission to prorate its full maintenance amount in accordance with divisions (E)(1) to (4) of this section. If the commission approves the request, the commission and the district shall amend the agreement entered into under section 3318.08 of the Revised Code to reflect the change.

(F) If a school district levies the tax described in division (B) of section 3318.05 of the Revised Code or an extension of that tax under section 3318.061 of the Revised Code, the tax shall run for twenty-three years from the date the ~~first~~ segment for which the tax is initially levied is undertaken~~; however, the~~. The maintenance levy requirement, as defined in section 3318.18 of the Revised Code, does not apply to a segment undertaken under division (C) of this section.

(G) As used in this section, "full maintenance amount" means the amount of total revenue that a school district likely would generate by one-half mill of the tax described in division (B) of section 3318.05 of the Revised Code over the entire twenty-three-year period required under that section, as determined by the commission in consultation with the department

of taxation.

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the

school district board shall authorize the issuance of a first installment of bond anticipation notes in an amount specified by the agreement, which amount shall not exceed an amount necessary to raise the net bonded indebtedness of the school district as of the date of the controlling board's approval to within five thousand dollars of the required level of indebtedness for the preceding year. In the event that a first installment of bond anticipation notes is issued, the school district board shall, as soon as practicable after the county treasurer of each county in which the school district is located has commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, authorize the issuance of a second and final installment of bond anticipation notes or a first and final issue of bonds.

The combined value of the first and second installment of bond anticipation notes or the value of the first and final issue of bonds shall be equal to the school district's portion of the basic project cost. The proceeds of any such bonds shall be used first to retire any bond anticipation notes. Otherwise, the proceeds of such bonds and of any bond anticipation notes, except the premium and accrued interest thereon, shall be deposited in the school district's project construction fund. In determining the amount of net bonded indebtedness for the purpose of fixing the amount of an issue of either bonds or bond anticipation notes, gross indebtedness shall be reduced by moneys in the bond retirement fund only to the extent of the moneys therein on the first day of the year preceding the year in which the controlling board approved the project. Should there be a decrease in the tax valuation of the school district so that the amount of indebtedness that can be incurred on the tax duplicates for the year in which the controlling board approved the project is less than the amount of the first installment of bond anticipation notes, there shall be paid from the school district's project

construction fund to the school district's bond retirement fund to be applied against such notes an amount sufficient to cause the net bonded indebtedness of the school district, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness for the year in which the controlling board approved the project. The maximum amount of indebtedness to be incurred by any school district board as its share of the cost of the project is either an amount that will cause its net bonded indebtedness, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness, or an amount equal to the required percentage of the basic project costs, whichever is greater. All bonds and bond anticipation notes shall be issued in accordance with Chapter 133. of the Revised Code, and notes may be renewed as provided in section 133.22 of the Revised Code.

(B) The transfer of such funds of the school district board available for the project, together with the proceeds of the sale of the bonds or notes, except premium, accrued interest, and interest included in the amount of the issue, to the school district's project construction fund;

(C) For all school districts except joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the following provisions as applicable:

(1) If section 3318.052 of the Revised Code applies, the earmarking of the proceeds of a tax levied under section 5705.21 of the Revised Code for general permanent improvements or under section 5705.218 of the Revised Code for the purpose of permanent improvements, or the proceeds of a school district income tax levied under Chapter 5748. of the Revised Code, or the proceeds

from a combination of those two taxes, in an amount to pay all or part of the service charges on bonds issued to pay the school district portion of the project and an amount equivalent to all or part of the tax required under division (B) of section 3318.05 of the Revised Code;

(2) If section 3318.052 of the Revised Code does not apply, one of the following:

(a) The levy of the tax authorized at the election for the payment of maintenance costs, as specified in division (B) of section 3318.05 of the Revised Code;

(b) If the school district electors have approved a continuing tax for general permanent improvements under section 5705.21 of the Revised Code and that tax can be used for maintenance, the earmarking of an amount of the proceeds from such tax for maintenance of classroom facilities as specified in division (B) of section 3318.05 of the Revised Code;

(c) If, in lieu of the tax otherwise required under division (B) of section 3318.05 of the Revised Code, the commission has approved the transfer of money to the maintenance fund in accordance with section 3318.051 of the Revised Code, a requirement that the district board comply with the provisions that section. The district board may rescind the provision prescribed under division (C)(2)(c) of this section only so long as the electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors.

(D) For joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, provision for deposit of school district moneys dedicated to

maintenance of the classroom facilities acquired under those sections as prescribed in section 3318.43 of the Revised Code;

(E) Dedication of any local donated contribution as provided for under section 3318.084 of the Revised Code, including a schedule for depositing such moneys applied as an offset of the district's obligation to levy the tax described in division (B) of section 3318.05 of the Revised Code as required under division (D)(2) of section 3318.084 of the Revised Code;

(F) Ownership of or interest in the project during the period of construction, which shall be divided between the commission and the school district board in proportion to their respective contributions to the school district's project construction fund;

(G) Maintenance of the state's interest in the project until any obligations issued for the project under section 3318.26 of the Revised Code are no longer outstanding;

(H) The insurance of the project by the school district from the time there is an insurable interest therein and so long as the state retains any ownership or interest in the project pursuant to division (F) of this section, in such amounts and against such risks as the commission shall require; provided, that the cost of any required insurance until the project is completed shall be a part of the basic project cost;

(I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code;

(J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission;

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;

(L) Disposal of any balance left in the school district's project construction fund upon completion of the project;

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(O) Provision for deposit of an executed copy of the agreement in the office of the commission;

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;

(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;

(R) Provision that all state funds reserved and encumbered to pay the state share of the cost of the project and the funds provided by the school district to pay for its share of the project cost, including the respective shares of the cost of a segment if the project is divided into segments, be spent on the construction and acquisition of the project or segment

simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code. However, if the school district certifies to the commission that expenditure by the school district is necessary to maintain the federal tax status or tax-exempt status of notes or bonds issued by the school district to pay for its share of the project cost or to comply with applicable temporary investment periods or spending exceptions to rebate as provided for under federal law in regard to those notes or bonds, the school district may commit to spend, or spend, a greater portion of the funds it provides during any specific period than would otherwise be required under this division.

(S) A provision stipulating that the commission may prohibit the district from proceeding with any project if the commission determines that the site is not suitable for construction purposes. The commission may perform soil tests in its determination of whether a site is appropriate for construction purposes.

(T) A provision stipulating that, unless otherwise authorized by the commission, any contingency reserve portion of the construction budget prescribed by the commission shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project as provided under section 3318.086 of the Revised Code;

(U) Provision stipulating that for continued release of project funds the school district board shall comply with section 3313.41 of the Revised Code throughout the project and shall

notify the department of education and the Ohio community school association when the board plans to dispose of facilities by sale under that section;

(V) Provision that the commission shall not approve a contract for demolition of a facility until the school district board has complied with section 3313.41 of the Revised Code relative to that facility, unless demolition of that facility is to clear a site for construction of a replacement facility included in the district's project;

(W) A requirement for the school district to adhere to a facilities maintenance plan approved by the commission.

Sec. 3318.10. When such working drawings, specifications, and estimates of cost have been approved by the school district board and the Ohio school facilities commission, the treasurer of the school district board shall advertise for construction bids in accordance with section 3313.46 of the Revised Code. Such notices shall state that plans and specifications for the project are on file in the office of the commission and such other place as may be designated in such notice, and the time and place when and where bids therefor will be received.

The form of proposal to be submitted by bidders shall be supplied by the commission. Bidders may be permitted to bid upon all the branches of work and materials to be furnished and supplied, upon any branch thereof, or upon all or any thereof.

When the construction bids for all branches of work and materials have been tabulated, the commission shall cause to be prepared a revised estimate of the basic project cost based upon the lowest responsible bids received. If such revised estimate exceeds the estimated basic project cost as approved by the controlling board pursuant to section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code, no contracts may be

entered into pursuant to this section unless such revised estimate is approved by the commission and by the controlling board. When such revised estimate has been prepared, and after such approvals are given, if necessary, and if the school district board has caused to be transferred to the project construction fund the proceeds from the sale of the first or first and final installment of its bonds or bond anticipation notes pursuant to the provision of the written agreement required by division (B) of section 3318.08 of the Revised Code, and when the director of budget and management has certified that there is a balance in the appropriation, not otherwise obligated to pay precedent obligations, pursuant to which the state's share of such revised estimate is required to be paid, the contract for all branches of work and materials to be furnished and supplied, or for any branch thereof as determined by the school district board, shall be awarded by the school district board to the lowest responsible bidder subject to the approval of the commission. Such award shall be made within sixty days after the date on which the bids are opened, and the successful bidder shall enter into a contract within ten days after the successful bidder is notified of the award of the contract.

Subject to the approval of the commission, the school district board may reject all bids and readvertise. Any contract made under this section shall be made in the name of the state and executed on its behalf by the president and treasurer of the school district board.

The provisions of sections 9.312 and 3313.46 of the Revised Code, which are applicable to construction contracts of boards of education, shall apply to construction contracts for the project.

The remedies afforded to any subcontractor, materials supplier, laborer, mechanic, or persons furnishing material or machinery for the project under sections 1311.26 to 1311.32 of the

Revised Code, shall apply to contracts entered into under this section and the itemized statement required by section 1311.26 of the Revised Code shall be filed with the school district board.

Notwithstanding any other requirement of this section, a school district, with the approval of the commission, may utilize any otherwise lawful alternative construction delivery method for the construction of the project.

Sec. 3318.30. (A) There is hereby created the Ohio school facilities commission as an independent agency of the state within the Ohio facilities construction commission, which is created under section 123.20 of the Revised Code. The Ohio school facilities commission shall administer the provision of financial assistance to school districts for the acquisition or construction of classroom facilities in accordance with sections 3318.01 to 3318.33 of the Revised Code.

The Ohio school facilities commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the Ohio school facilities commission of its powers conferred by sections 3318.01 to 3318.33 of the Revised Code are essential public functions and public purposes of the state. The Ohio school facilities commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by sections 3318.01 to 3318.33 of the Revised Code, but it does not have and shall not exercise the power of eminent domain. In its discretion and as it determines appropriate, the Ohio school facilities commission may delegate to any of its members, executive director, or other employees any of the Ohio school facilities commission's powers and duties to carry out its functions.

(B) The Ohio school facilities commission shall consist of seven members, three of whom are voting members. The voting members of the Ohio school facilities commission shall be the director of the office of budget and management, the director of administrative services, and the superintendent of public instruction, or their designees. Of the nonvoting members, two shall be members of the senate appointed by the president of the senate, and two shall be members of the house of representatives appointed by the speaker of the house. Each of the appointees of the president, and each of the appointees of the speaker, shall be members of different political parties.

Nonvoting members shall serve as members of the Ohio school facilities commission during the legislative biennium for which they are appointed, except that any such member who ceases to be a member of the legislative house from which the member was appointed shall cease to be a member of the Ohio school facilities commission. Each nonvoting member shall be appointed within thirty-one days of the end of the term of that member's predecessor. Such members may be reappointed. Vacancies of nonvoting members shall be filled in the manner provided for original appointments.

Members of the Ohio school facilities commission shall serve without compensation.

After the initial nonvoting members of the Ohio school facilities commission have been appointed, the Ohio school facilities commission shall meet and organize by electing voting members as the chairperson and vice-chairperson of the Ohio school facilities commission, who shall hold their offices until the next organizational meeting of the Ohio school facilities commission. Organizational meetings of the Ohio school facilities commission shall be held at the first meeting of each calendar year. At each organizational meeting, the Ohio school facilities commission

shall elect from among its voting members a chairperson and vice-chairperson, who shall serve until the next annual organizational meeting. The Ohio school facilities commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings. Including the organizational meeting, the Ohio school facilities commission shall meet at least once each calendar quarter.

Two voting members of the Ohio school facilities commission constitute a quorum, and the affirmative vote of two members is necessary for approval of any action taken by the Ohio school facilities commission. A vacancy in the membership of the Ohio school facilities commission does not impair a quorum from exercising all the rights and performing all the duties of the Ohio school facilities commission. Meetings of the Ohio school facilities commission may be held anywhere in the state and shall be held in compliance with section 121.22 of the Revised Code.

(C) The Ohio school facilities commission shall file an annual report of its activities and finances with the governor, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees.

(D) The Ohio school facilities commission shall be exempt from the requirements of sections 101.82 to 101.87 of the Revised Code.

(E) The Ohio school facilities commission may share employees and facilities with the Ohio facilities construction commission.

Sec. 3318.31. (A) The Ohio school facilities commission may perform any act and ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, Chapter 3318. of the Revised Code, including any of the following:

(1) Adopt, amend, and rescind, pursuant to section 111.15 of the Revised Code, rules for the administration of programs authorized under Chapter 3318. of the Revised Code.

(2) Contract with, retain the services of, or designate, and fix the compensation of, such agents, accountants, consultants, advisers, and other independent contractors as may be necessary or desirable to carry out the programs authorized under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(3) Receive and accept any gifts, grants, donations, and pledges, and receipts therefrom, to be used for the programs authorized under Chapter 3318. of the Revised Code.

(4) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(5) Request the ~~director of administrative services~~ Ohio facilities construction commission to debar a contractor as provided in section 153.02 of the Revised Code.

(B) The Ohio school facilities commission shall appoint and fix the compensation of an executive director who shall serve at the pleasure of the Ohio school facilities commission. The executive director shall exercise all powers that the Ohio school facilities commission possesses, supervise the operations of the Ohio school facilities commission and perform such other duties as delegated by the Ohio school facilities commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the Ohio school facilities commission, who shall serve at the pleasure of the executive director. The employees of the Ohio school

facilities commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code. Any agreement entered into prior to July 1, 2012, between the office of collective bargaining and the exclusive representative for employees of the commission is binding and shall continue to have effect.

(C) The Ohio school facilities commission may adopt, amend, and rescind rules pertaining to the administration of the construction of school facilities of the state under Chapter 119. of the Revised Code.

(D) The attorney general shall serve as the legal representative for the Ohio school facilities commission and may appoint other counsel as necessary for that purpose in accordance with section 109.07 of the Revised Code.

Sec. 3318.37. (A)(1) As used in this section:

(a) "Full maintenance amount" has the same meaning as in section 3318.034 of the Revised Code.

(b) "Large land area school district" means a school district with a territory of greater than three hundred square miles in any percentile as determined under section 3318.011 of the Revised Code.

~~(b)~~(c) "Low wealth school district" means a school district in the first through seventy-fifth percentiles as determined under section 3318.011 of the Revised Code.

~~(c)~~(d) A "school district with an exceptional need for immediate classroom facilities assistance" means a low wealth or large land area school district with an exceptional need for new facilities in order to protect the health and safety of all or a portion of its students.

(2) No school district that participates in the school

building assistance expedited local partnership program under section 3318.36 of the Revised Code shall receive assistance under the program established under this section unless the following conditions are satisfied:

(a) The district board adopted a resolution certifying its intent to participate in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code prior to September 14, 2000.

(b) The district was selected by the Ohio school facilities commission for participation in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code in the manner prescribed by the commission under that section as it existed prior to September 14, 2000.

(B)(1) There is hereby established the exceptional needs school facilities assistance program. Under the program, the Ohio school facilities commission may set aside from the moneys annually appropriated to it for classroom facilities assistance projects up to twenty-five per cent for assistance to school districts with exceptional needs for immediate classroom facilities assistance.

(2)(a) After consulting with education and construction experts, the commission shall adopt guidelines for identifying school districts with an exceptional need for immediate classroom facilities assistance.

(b) The guidelines shall include application forms and instructions for school districts to use in applying for assistance under this section.

(3) The commission shall evaluate the classroom facilities, and the need for replacement classroom facilities from the applications received under this section. The commission, utilizing the guidelines adopted under division (B)(2)(a) of this

section, shall prioritize the school districts to be assessed.

Notwithstanding section 3318.02 of the Revised Code, the commission may conduct on-site evaluation of the school districts prioritized under this section and approve and award funds until such time as all funds set aside under division (B)(1) of this section have been encumbered. However, the commission need not conduct the evaluation of facilities if the commission determines that a district's assessment conducted under section 3318.36 of the Revised Code is sufficient for purposes of this section.

(4) Notwithstanding division (A) of section 3318.05 of the Revised Code, the school district's portion of the basic project cost under this section shall be the "required percentage of the basic project costs," as defined in division (K) of section 3318.01 of the Revised Code.

(5) Except as otherwise specified in this section, any project undertaken with assistance under this section shall comply with all provisions of sections 3318.01 to 3318.20 of the Revised Code. A school district may receive assistance under sections 3318.01 to 3318.20 of the Revised Code for the remainder of the district's classroom facilities needs as assessed under this section when the district is eligible for such assistance pursuant to section 3318.02 of the Revised Code, but any classroom facility constructed with assistance under this section shall not be included in a district's project at that time unless the commission determines the district has experienced the increased enrollment specified in division (B)(1) of section 3318.04 of the Revised Code.

(C) No school district shall receive assistance under this section for a classroom facility that has been included in the discrete part of the district's classroom facilities needs identified and addressed in the district's project pursuant to an agreement entered into under section 3318.36 of the Revised Code,

unless the district's entire classroom facilities plan consists of only a single building designed to house grades kindergarten through twelve.

(D)(1) When undertaking a project under this section, a school district may elect to prorate its full maintenance amount by setting aside for maintenance the amount calculated under division (D)(2) of this section to maintain the classroom facilities acquired under the project, if the district will use one or more of the alternative methods authorized in sections 3318.051, 3318.052, and 3318.084 of the Revised Code to generate the entire amount calculated under that division. If the district so elects, the commission and the district shall include in the agreement entered into under section 3318.08 of the Revised Code a statement specifying that the district will use the amount calculated under that division only to maintain the classroom facilities acquired under the project under this section.

(2) The commission shall calculate the amount for a school district to maintain the classroom facilities acquired under a project under this section as follows:

The full maintenance amount X (the school district's portion of the basic project cost under this section / the school district's portion of the basic project cost for the district's entire classroom facilities needs, as determined jointly by the staff of the commission and the district)

(3) A school district may elect to prorate its full maintenance amount for any number of projects under this section, provided the district will use one or more of the alternative methods authorized in sections 3318.051, 3318.052, and 3318.084 of the Revised Code to generate the entire amount calculated under division (D)(2) of this section to maintain the classroom facilities acquired under each project for which it so elects. If the district cannot use one or more of those alternative methods

to generate the entire amount calculated under that division, the district shall levy the tax described in division (B) of section 3318.05 of the Revised Code or an extension of that tax under section 3318.061 of the Revised Code in an amount necessary to generate the remainder of its full maintenance amount. The commission shall calculate the remainder of the district's full maintenance amount as follows:

The full maintenance amount - the sum of the amounts calculated for the district under division (D)(2) of this section for each of the district's prior projects under this section

(4) In no case shall the sum of the amounts calculated for a school district's maintenance of classroom facilities under divisions (D)(2) and (3) of this section exceed the amount that would have been required for maintenance if the district had elected to meet its entire classroom facilities needs with a project under sections 3318.01 to 3318.20 of the Revised Code and had not undertaken one or more projects under this section.

(5) If a school district commenced a project under this section prior to the effective date of this amendment but has not completed that project, and has not levied the tax described in division (B) of section 3318.05 of the Revised Code or an extension of that tax under section 3318.061 of the Revised Code, the district may request approval from the commission to prorate its full maintenance amount in accordance with divisions (D)(1) to (4) of this section. If the commission approves the request, the commission and the district shall amend the agreement entered into under section 3318.08 of the Revised Code to reflect the change.

Sec. 3333.04. The chancellor of the Ohio board of regents shall:

(A) Make studies of state policy in the field of higher education and formulate a master plan for higher education for the

state, considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs;

(B)(1) Report annually to the governor and the general assembly on the findings from the chancellor's studies and the master plan for higher education for the state;

(2) Report at least semiannually to the general assembly and the governor the enrollment numbers at each state-assisted institution of higher education.

(C) Approve or disapprove the establishment of new branches or academic centers of state colleges and universities;

(D) Approve or disapprove the establishment of state technical colleges or any other state institution of higher education;

(E) Recommend the nature of the programs, undergraduate, graduate, professional, state-financed research, and public services which should be offered by the state colleges, universities, and other state-assisted institutions of higher education in order to utilize to the best advantage their facilities and personnel;

(F) Recommend to the state colleges, universities, and other state-assisted institutions of higher education graduate or professional programs, including, but not limited to, doctor of philosophy, doctor of education, and juris doctor programs, that could be eliminated because they constitute unnecessary duplication, as shall be determined using the process developed pursuant to this division, or for other good and sufficient cause. Prior to recommending a program for elimination, the chancellor shall request the board of regents to hold at least one public hearing on the matter and advise the chancellor on whether the program should be recommended for elimination. The board shall

provide notice of each hearing within a reasonable amount of time prior to its scheduled date. Following the hearing, the board shall issue a recommendation to the chancellor. The chancellor shall consider the board's recommendation but shall not be required to accept it.

For purposes of determining the amounts of any state instructional subsidies paid to state colleges, universities, and other state-assisted institutions of higher education, the chancellor may exclude students enrolled in any program that the chancellor has recommended for elimination pursuant to this division except that the chancellor shall not exclude any such student who enrolled in the program prior to the date on which the chancellor initially commences to exclude students under this division.

The chancellor and state colleges, universities, and other state-assisted institutions of higher education shall jointly develop a process for determining which existing graduate or professional programs constitute unnecessary duplication.

(G) Recommend to the state colleges, universities, and other state-assisted institutions of higher education programs which should be added to their present programs;

(H) Conduct studies for the state colleges, universities, and other state-assisted institutions of higher education to assist them in making the best and most efficient use of their existing facilities and personnel;

(I) Make recommendations to the governor and general assembly concerning the development of state-financed capital plans for higher education; the establishment of new state colleges, universities, and other state-assisted institutions of higher education; and the establishment of new programs at the existing state colleges, universities, and other institutions of higher

education;

(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate the chancellor's recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the chancellor shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the chancellor shall make no change in the definition of "full-time equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal impact statement to the president of the senate, the speaker of the house of representatives, the legislative service commission, and the director of budget and management. The chancellor shall work in close cooperation with the director of budget and management in this respect and in all other matters concerning the expenditures of appropriated funds by state colleges, universities, and other institutions of higher education.

(K) Seek the cooperation and advice of the officers and trustees of both public and private colleges, universities, and other institutions of higher education in the state in performing the chancellor's duties and making the chancellor's plans, studies, and recommendations;

(L) Appoint advisory committees consisting of persons

associated with public or private secondary schools, members of the state board of education, or personnel of the state department of education;

(M) Appoint advisory committees consisting of college and university personnel, or other persons knowledgeable in the field of higher education, or both, in order to obtain their advice and assistance in defining and suggesting solutions for the problems and needs of higher education in this state;

(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education;

(O) Adopt such rules as are necessary to carry out the chancellor's duties and responsibilities. The rules shall prescribe procedures for the chancellor to follow when taking actions associated with the chancellor's duties and responsibilities and shall indicate which types of actions are subject to those procedures. The procedures adopted under this division shall be in addition to any other procedures prescribed by law for such actions. However, if any other provision of the Revised Code or rule adopted by the chancellor prescribes different procedures for such an action, the procedures adopted under this division shall not apply to that action to the extent they conflict with the procedures otherwise prescribed by law. The procedures adopted under this division shall include at least the following:

(1) Provision for public notice of the proposed action;

(2) An opportunity for public comment on the proposed action, which may include a public hearing on the action by the board of regents;

(3) Methods for parties that may be affected by the proposed action to submit comments during the public comment period;

(4) Submission of recommendations from the board of regents regarding the proposed action, at the request of the chancellor;

(5) Written publication of the final action taken by the chancellor and the chancellor's rationale for the action;

(6) A timeline for the process described in divisions (O)(1) to (5) of this section.

(P) ~~Establish and submit to the governor and the general assembly a clear and measurable set of goals and timetables for their achievement for each program under the chancellor's supervision that is designed to accomplish any of the following:~~

~~(1) Increased access to higher education;~~

~~(2) Job training;~~

~~(3) Adult literacy;~~

~~(4) Research;~~

~~(5) Excellence in higher education;~~

~~(6) Reduction in the number of graduate programs within the same subject area.~~

~~In July of each odd-numbered year, the chancellor shall submit to the governor and the general assembly a report on progress made toward these goals.~~

~~(Q)~~ Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to 3333.26, and 5910.02 of the Revised Code;

~~(R)~~(Q) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;

~~(S)~~(R) Adopt rules for student financial aid programs as

required by sections 3333.12, 3333.122, 3333.21 to 3333.26, 3333.28, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the chancellor by those sections;

~~(T)~~(S) Conduct enrollment audits of state-supported institutions of higher education;

~~(U)~~(T) Appoint consortia of college and university personnel to advise or participate in the development and operation of statewide collaborative efforts, including the Ohio supercomputer center, the Ohio academic resources network, OhioLink, and the Ohio learning network. For each consortium, the chancellor shall designate a college or university to serve as that consortium's fiscal agent, financial officer, and employer. Any funds appropriated for the consortia shall be distributed to the fiscal agents for the operation of the consortia. A consortium shall follow the rules of the college or university that serves as its fiscal agent. The chancellor may restructure existing consortia, appointed under this division, in accordance with procedures adopted under divisions ~~(D)~~(O)(1) to (6) of this section.

~~(V)~~(U) Adopt rules establishing advisory duties and responsibilities of the board of regents not otherwise prescribed by law;

~~(W)~~(V) Respond to requests for information about higher education from members of the general assembly and direct staff to conduct research or analysis as needed for this purpose.

Sec. 3333.041. (A) On or before the last day of December of each year, the chancellor of the Ohio board of regents shall submit ~~a report~~ to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly~~, the state board of education, and the board of education of each city, exempted village, and local school district on the~~ a report or reports

concerning all of the following:

(1) The status of graduates of Ohio school districts at ~~state-assisted colleges or universities~~ state institutions of higher education during the twelve-month period ending on the thirtieth day of September of the current calendar year. The report shall list, by school district, the number of graduates of each school district who attended ~~such~~ a ~~college or university~~ state institution of higher education and the percentage of each district's graduates enrolled in ~~such~~ a ~~college or university~~ state institution of higher education during the reporting period who were required during such period by the college or university, as a prerequisite to enrolling in those courses generally required for first-year students, to enroll in a remedial course in English, including composition or reading, mathematics, and any other area designated by the ~~board~~ chancellor. The chancellor also shall make the information described in division (A)(1) of this section available to the board of education of each city, exempted village, and local school district.

Each ~~state-assisted college and university~~ state institution of higher education shall, by the first day of November of each year, submit to the chancellor in the form specified by the chancellor the information the chancellor requires to compile the report.

(2) Aggregate academic growth data for students assigned to graduates of teacher preparation programs approved under section 3333.048 of the Revised Code who teach English language arts or mathematics in any of grades four to eight in a public school in Ohio. For this purpose, the chancellor shall use the value-added progress dimension prescribed by section 3302.021 of the Revised Code. The chancellor shall aggregate the data by graduating class for each approved teacher preparation program, except that if a particular class has ten or fewer graduates to which this section

applies, the chancellor shall report the data for a group of classes over a three-year period. In no case shall the report identify any individual graduate. The department of education shall share any data necessary for the report with the chancellor.

(3) The following information with respect to the Ohio tuition trust authority:

(a) The name of each investment manager that is a minority business enterprise or a women's business enterprise with which the chancellor contracts;

(b) The amount of assets managed by investment managers that are minority business enterprises or women's business enterprises, expressed as a percentage of assets managed by investment managers with which the chancellor has contracted;

(c) Efforts by the chancellor to increase utilization of investment managers that are minority business enterprises or women's business enterprises.

(4) The status of implementation of faculty improvement programs under section 3345.28 of the Revised Code. The report shall include, but need not be limited to, the following: the number of professional leave grants made by each institution; the purpose of each professional leave; and a statement of the cost to the institution of each professional leave, to the extent that the cost exceeds the salary of the faculty member on professional leave.

(5) The number and types of biobased products purchased under section 125.092 of the Revised Code and the amount of money spent by state institutions of higher education for those biobased products as that information is provided to the chancellor under division (A) of section 3345.692 of the Revised Code.

(6) A description of dual enrollment programs, as defined in section 3313.6013 of the Revised Code, that are offered by school

districts, community schools established under Chapter 3314. of the Revised Code, STEM schools established under Chapter 3326. of the Revised Code, college-preparatory boarding schools established under Chapter 3328. of the Revised Code, and chartered nonpublic high schools. The chancellor also shall post the information on the chancellor's web site.

(7) The academic and economic impact of the Ohio innovation partnership established under section 3333.61 of the Revised Code. At a minimum, the report shall include the following:

(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year;

(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy;

(c) The chancellor's strategy in assigning choose Ohio first scholarships among state universities and colleges and how the actual awards fit that strategy.

(8) The academic and economic impact of the Ohio co-op/internship program established under section 3333.72 of the Revised Code. At a minimum, the report shall include the following:

(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year;

(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy;

(c) The chancellor's strategy in allocating awards among state institutions of higher education and how the actual awards fit that strategy.

(B) As used in this section~~, "state-assisted college or~~

~~university" means a state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community colleges, state community colleges, university branches, and technical colleges.~~:

(1) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(2) "State institution of higher education" and "state university" have the same meanings as in section 3345.011 of the Revised Code.

(3) "State university or college" has the same meaning as in section 3345.12 of the Revised Code.

(4) "Women's business enterprise" means a business, or a partnership, corporation, limited liability company, or joint venture of any kind, that is owned and controlled by women who are United States citizens and residents of this state.

Sec. 3333.123. (A) As used in this section:

(1) "The Ohio college opportunity grant program" means the program established under section 3333.122 of the Revised Code.

(2) "Rules for the Ohio college opportunity grant program" means the rules authorized in division ~~(S)~~(R) of section 3333.04 of the Revised Code for the implementation of the program.

(B) In adopting rules for the Ohio college opportunity grant program, the chancellor of the Ohio board of regents may include provisions that give preferential or priority funding to low-income students who in their primary and secondary school work participate in or complete rigorous academic coursework, attain passing scores on the assessments prescribed in section 3301.0710 of the Revised Code, or meet other high academic performance standards determined by the chancellor to reduce the need for remediation and ensure academic success at the postsecondary

education level. Any such rules shall include a specification of procedures needed to certify student achievement of primary and secondary standards as well as the timeline for implementation of the provisions authorized by this section.

Sec. 3333.21. As used in sections 3333.21 to 3333.23 of the Revised Code, "term" and "academic year" mean "term" and "academic year" as defined by the chancellor of the Ohio board of regents.

The chancellor shall establish and administer an academic scholarship program. Under the program, a total of one thousand new scholarships shall be awarded annually in the amount of not less than two thousand dollars per award. At least one such new scholarship shall be awarded annually to a student in each public high school and joint vocational school and each nonpublic high school for which the state board of education prescribes minimum standards in accordance with section 3301.07 of the Revised Code.

To be eligible for the award of a scholarship, a student shall be a resident of Ohio and shall be enrolled as a full-time undergraduate student in an Ohio institution of higher education that meets the requirements of Title VI of the "Civil Rights Act of 1964" and is state-assisted, is nonprofit and holds a certificate of authorization issued under section 1713.02 of the Revised Code, is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or holds a certificate of registration and program authorization issued under section 3332.05 of the Revised Code and awards an associate or bachelor's degree. Students who attend an institution holding a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization to offer the program issued under section 3332.05 of the Revised Code.

"Resident" and "full-time student" shall be defined in rules adopted by the chancellor.

The chancellor shall award the scholarships on the basis of a formula designed by the chancellor to identify students with the highest capability for successful college study. The formula shall weigh the factor of achievement, as measured by grade point average, and the factor of ability, as measured by performance on a competitive examination specified by the chancellor. Students receiving scholarships shall be known as "Ohio academic scholars." ~~Annually, not later than the thirty-first day of July, the chancellor shall report to the governor and the general assembly on the performance of current Ohio academic scholars and the effectiveness of the formula.~~

Sec. 3333.60. As used in sections 3333.61 to ~~3333.70~~ 3333.69 of the Revised Code:

(A) "State university or college" has the same meaning as in section 3345.12 of the Revised Code.

(B) "State university" and "state institution of higher education" have the same meanings as in section 3345.011 of the Revised Code.

Sec. 3333.61. The chancellor of the Ohio board of regents shall establish and administer the Ohio innovation partnership, which shall consist of the choose Ohio first scholarship program and the Ohio research scholars program. Under the programs, the chancellor, subject to approval by the controlling board, shall make awards to state universities or colleges for programs and initiatives that recruit students and scientists in the fields of science, technology, engineering, mathematics, and medicine to state universities or colleges, in order to enhance regional educational and economic strengths and meet the needs of the

state's regional economies. Awards may be granted for programs and initiatives to be implemented by a state university or college alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state university or college in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the Ohio innovation partnership.

The choose Ohio first scholarship program shall assign a number of scholarships to state universities and colleges to recruit Ohio residents as undergraduate, or as provided in section 3333.66 of the Revised Code graduate, students in the fields of science, technology, engineering, mathematics, and medicine, or in science, technology, engineering, mathematics, or medical education. Choose Ohio first scholarships shall be awarded to each participating eligible student as a grant to the state university or college the student is attending and shall be reflected on the student's tuition bill. Choose Ohio first scholarships are student-centered grants from the state to students to use to attend a university or college and are not grants from the state to universities or colleges.

Notwithstanding any other provision of this section or sections 3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, a nonpublic four-year Ohio institution of higher education may submit a proposal for choose Ohio first scholarships or Ohio research scholars grants. If the chancellor awards a nonpublic institution scholarships or grants, the nonpublic institution shall comply with all requirements of this section, sections

3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, and the rules adopted under this section that apply to state universities or colleges awarded choose Ohio first scholarships or Ohio research scholars grants.

The Ohio research scholars program shall award grants to use in recruiting scientists to the faculties of state universities or colleges.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the programs.

Sec. 3333.71. As used in sections 3333.71 to ~~3333.80~~ 3333.79 of the Revised Code:

(A) "Cooperative education program" means a partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work experience in cooperating employer organizations and that meets all of the following conditions:

(1) Alternates or combines periods of academic study and work experience in appropriate fields as an integral part of student education;

(2) Provides students with compensation from the cooperative employer in the form of wages or salaries for work performed;

(3) Evaluates each participating student's performance in the cooperative position, both from the perspective of the student's institution of higher education and the student's cooperative employer;

(4) Provides participating students with academic credit from the institution of higher education upon successful completion of their cooperative education;

(5) Is part of an overall degree or certificate program for which a percentage of the total program acceptable to the

chancellor of the Ohio board of regents involves cooperative education.

(B) "Internship program" means a partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work or community service experience and that does both of the following:

(1) Offers internships of specified and definite duration;

(2) Evaluates each participating student's performance in the internship position, both from the perspective of the student's institution of higher education and the student's internship employer.

An internship program may provide participating students with academic credit upon successful completion of the internship, and may provide students with compensation in the form of wages or salaries, stipends, or scholarships.

(C) "Nonpublic university or college" means a nonprofit institution holding a certificate of authorization issued under Chapter 1713. of the Revised Code.

(D) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3333.72. The chancellor of the Ohio board of regents shall establish and administer the Ohio co-op/internship program to promote and encourage cooperative education programs or internship programs at Ohio institutions of higher education for the purpose of recruiting Ohio students to stay in the state, and recruiting Ohio residents who left Ohio to attend out-of-state institutions of higher education back to Ohio institutions of higher education, to participate in high quality academic programs that use cooperative education programs or significant internship programs, in order to support the growth of Ohio's businesses by

providing businesses with Ohio's most talented students and providing Ohio graduates with job opportunities with Ohio's growing companies.

The chancellor, subject to approval by the controlling board, shall make awards to state institutions of higher education for new or existing programs and initiatives meeting the goals of the Ohio co-op/internship program. Awards may be granted for programs and initiatives to be implemented by a state institution of higher education alone or in collaboration with other state institutions of higher education or nonpublic Ohio universities and colleges. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state institution of higher education in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the Ohio co-op/internship program.

The Ohio co-op/internship program shall support the creation and maintenance of high quality academic programs that utilize an intensive cooperative education or internship program for students at state institutions of higher education, or assign a number of scholarships to institutions to recruit Ohio residents as students in a high quality academic program, or both. If scholarships are included in an award to an institution of higher education, the scholarships shall be awarded to each participating eligible student as a grant to the state institution of higher education the student is attending and shall be reflected on the student's tuition bill.

Notwithstanding any other provision of this section or sections 3333.73 to ~~3333.80~~ 3333.79 of the Revised Code, an Ohio four-year nonpublic university or college may submit a proposal as

lead applicant or co-lead applicant for an award under the Ohio co-op/internship program if the proposal is to be implemented in collaboration with a state institution of higher education. If the chancellor grants a nonpublic university or college an award, the nonpublic university or college shall comply with all requirements of this section, sections 3333.73 to ~~3333.80~~ 3333.79 of the Revised Code, and the rules adopted under this section that apply to state institutions of higher education that receive awards under the program.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the Ohio co-op/internship program.

Sec. 3334.08. (A) Subject to division (B) of this section, in addition to any other powers conferred by this chapter, the Ohio tuition trust authority may do any of the following:

(1) Impose reasonable residency requirements for beneficiaries of tuition units;

(2) Impose reasonable limits on the number of tuition unit participants;

(3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition units;

(5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by

reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;

(6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;

(7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;

(8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;

(9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board pursuant to division (D)(6) of section 127.16 of the Revised Code; provided, however, that any funds of the Ohio college savings program and the variable college savings program that are not needed for immediate use shall be deposited by the treasurer of state in the same manner provided under Chapter 135. of the Revised Code for public moneys of the state. All interest earned on those deposits shall be credited to the Ohio college savings program or the variable college savings program, as applicable.

(10) Contract for other services, or for goods, needed by the authority in the conduct of its business, including but not limited to credit card services;

(11) Employ an executive director and other personnel as necessary to carry out its responsibilities under this chapter, and fix the compensation of these persons. All employees of the authority shall be in the unclassified civil service and shall be eligible for membership in the public employees retirement system. In the hiring of the executive director, the Ohio tuition trust authority shall obtain the advice and consent of the Ohio tuition trust board created in section 3334.03 of the Revised Code, provided that the executive director shall not be hired unless a majority of the board votes in favor of the hiring. In addition, the board may remove the executive director at any time subject to the advice and consent of the chancellor of the Ohio board of regents.

(12) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(13) Enter into agreements with any agency of the state or its political subdivisions or with private employers under which an employee may agree to have a designated amount deducted in each payroll period from the wages or salary due the employee for the purpose of purchasing tuition units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(14) Enter into an agreement with the treasurer of state under which the treasurer of state will receive, and credit to the Ohio tuition trust fund or variable college savings program fund, from any bank or savings and loan association authorized to do business in this state, amounts that a depositor of the bank or association authorizes the bank or association to withdraw periodically from the depositor's account for the purpose of purchasing tuition units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings

program contract;

(15) Solicit and accept gifts, grants, and loans from any person or governmental agency and participate in any governmental program;

(16) Impose limits on the number of units which may be purchased on behalf of or assigned or awarded to any beneficiary and on the total amount of contributions that may be made on behalf of a beneficiary;

(17) Impose restrictions on the substitution of another individual for the original beneficiary under the Ohio college savings program;

(18) Impose a limit on the age of a beneficiary, above which tuition units may not be purchased on behalf of that beneficiary;

(19) Enter into a cooperative agreement with the treasurer of state to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts;

(20) Determine the other higher education expenses for which tuition units or contributions may be used;

(21) Terminate any tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years or more and there are fewer than a total of five tuition units or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination;

(22) Maintain a separate account for each tuition payment or variable college savings program contract;

(23) Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this

chapter.

(B) The authority shall adopt rules under section 111.15 of the Revised Code for the implementation and administration of the variable college savings program. The rules shall provide taxpayers with the maximum tax advantages and flexibility consistent with section 529 of the Internal Revenue Code and regulations adopted thereunder with regard to disposition of contributions and earnings, designation of beneficiaries, and rollover of account assets to other programs.

(C) Except as otherwise specified in this chapter, the provisions of Chapters 123., 125., and 4117. of the Revised Code shall not apply to the authority. The department of administrative services shall, upon the request of the authority, act as the authority's agent for the purchase of equipment, supplies, insurance, or services, or the performance of administrative services pursuant to Chapter 125. of the Revised Code.

Sec. 3345.16. The board of trustees of a state college or university may receive, and hold in trust, for the use and benefit of the college or university any grant or devise of land, and donation or bequest of money or other personal property, to be applied to the general or special use of the college or university, including use for student loan and scholarship purposes, unless otherwise directed in the donation or bequest.

The board of trustees of a state college or university may utilize trust funds to invest in property, real and personal, as a portion of the holdings in the endowment portfolio under the trust powers imparted to the board of trustees. Such property, real and personal, acquired for investment purposes shall be managed by the board of trustees in the same manner as are other investments in the college's or university's endowment portfolio. The board of trustees may lease, lease back, or otherwise contract for the use

of such property in such manner as to provide earning power for the college or university investment portfolio. Sections 123.01, ~~123.04~~ 123.02, ~~123.15~~ 123.10, and ~~123.47~~ 123.13 of the Revised Code do not apply to properties, real and personal, held under this section as earning-power properties in the college or university endowment portfolio.

Notwithstanding any provision of the Revised Code to the contrary, the title in properties, real and personal, purchased by a board of trustees as an investment and held in the college's or university's endowment portfolio shall not be vested in the state, but shall be held in trust by the board.

Sec. 3345.28. The board of trustees of any state university, medical university, technical college, state community college, community college, or the board of trustees or managing authority of any university branch may establish and administer a faculty improvement program, under which any full-time faculty member with at least seven academic years of teaching service at the college, university, or branch may be granted professional leave for a period not to exceed one academic year to engage in further education, research, or any other purpose approved by the board. A board of trustees or managing authority that establishes such a program shall, by rule, adopt a definition of "academic years of teaching service" and of "full-time faculty member."

No such board or authority shall pay any faculty member for or during a period of professional leave any salary exceeding the amount that would have been paid to such faculty member for performing the faculty member's regular duties during the period of the leave. No faculty member shall, by virtue of being on professional leave, suffer a reduction or termination of the faculty member's regular employee retirement or insurance benefits or of any other benefit or privilege being received as a faculty

member at the college, university, or branch where the faculty member is employed. Whenever such a benefit would be reduced because of a reduction in the faculty member's salary during the period of professional leave, the faculty member shall be given a chance to have the benefit increased to its normal level, in accordance with rules adopted by the board of trustees or the managing authority. A faculty member who has been granted professional leave shall complete another seven years of service at the college, university, or branch at which the faculty member is employed before becoming eligible for another grant of professional leave at that college, university, or branch. Professional leave taken as part of a faculty improvement program established under this section shall not be deemed to be in lieu of released time or assigned duty in connection with a specific research, scholarly, or creative program.

Boards of trustees and managing authorities may accept moneys from any person, political subdivision, or the federal government to support a faculty improvement program, and may establish such additional rules as are necessary to establish and administer it.

Each grant of professional leave shall be in accordance with a professional improvement policy for professional leaves that has been approved by the board of trustees or the managing authority. No professional leave shall be granted that requires a compensating addition to the permanent faculty or staff of the college, university, or branch. No professional leave shall be approved unless a specific plan for the professional improvement of the faculty member while on leave has been submitted to and accepted by the president of the university, college, or branch. At the completion of the leave, the faculty member shall submit to the president a report detailing the attainments of the faculty member under this professional improvement plan.

~~Not later than the thirtieth day of June of each year, the~~

~~chancellor of the board of regents shall report to the chairpersons of the education committees of the house of representatives and the senate on the status of implementation of faculty improvement programs. The report shall include, but need not be limited to, the following: the number of professional leave grants made by each institution; the purpose of each professional leave; and a statement of the cost to the institution of each professional leave, to the extent that such cost exceeds the salary of the faculty member on professional leave.~~

Sec. 3345.50. Notwithstanding anything to the contrary in sections 123.01 and ~~123.15~~ 123.10 of the Revised Code, a state university, a state community college, or the northeast Ohio medical university not certified pursuant to section ~~123.17~~ 123.24 of the Revised Code may administer any capital facilities project for the construction, reconstruction, improvement, renovation, enlargement, or alteration of a public improvement under its jurisdiction for which the total amount of funds expected to be appropriated by the general assembly does not exceed four million dollars without the supervision, control, or approval of the ~~department of administrative services~~ Ohio facilities construction commission as specified in those sections, if both of the following occur:

(A) Within sixty days after the effective date of the section of an act in which the general assembly initially makes an appropriation for the project, the board of trustees of the institution notifies the chancellor of the Ohio board of regents in writing of its intent to administer the capital facilities project;

(B) The board of trustees complies with the guidelines established pursuant to section 153.16 of the Revised Code and all laws that govern the selection of consultants, preparation and

approval of contract documents, receipt of bids, and award of contracts with respect to the project.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code that establish criteria for the administration by any such institution of higher education of a capital facilities project for which the total amount of funds expected to be appropriated by the general assembly exceeds four million dollars. The criteria, to be developed with the ~~department of administrative services~~ Ohio facilities construction commission and higher education representatives selected by the chancellor, shall include such matters as the adequacy of the staffing levels and expertise needed for the institution to administer the project, past performance of the institution in administering such projects, and the amount of institutional or other nonstate money to be used in financing the project. The chancellor and the ~~department of administrative services~~ Ohio facilities construction commission shall approve the request of any such institution of higher education that seeks to administer any such capital facilities project and meets the criteria set forth in the rules and in the requirements of division (B) of this section.

Sec. 3345.51. (A) Notwithstanding anything to the contrary in sections ~~123.01~~ 123.20 and ~~123.15~~ 123.21 of the Revised Code, a state university, the northeast Ohio medical university, or a state community college may administer any capital facilities project for the construction, reconstruction, improvement, renovation, enlargement, or alteration of a public improvement under its jurisdiction for which funds are appropriated by the general assembly without the supervision, control, or approval of the ~~department of administrative services~~ Ohio facilities construction commission as specified in those sections, if all of the following occur:

(1) The institution is certified by the ~~state architect~~ commission under section ~~123.17~~ 123.24 of the Revised Code;

(2) Within sixty days after the effective date of the section of an act in which the general assembly initially makes an appropriation for the project, the board of trustees of the institution notifies the chancellor of the Ohio board of regents in writing of its request to administer the capital facilities project and the chancellor approves that request pursuant to division (B) of this section;

(3) The board of trustees passes a resolution stating its intent to comply with section 153.13 of the Revised Code and the guidelines established pursuant to section 153.16 of the Revised Code and all laws that govern the selection of consultants, preparation and approval of contract documents, receipt of bids, and award of contracts with respect to the project.

(B) The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code that establish criteria for the administration by any such institution of higher education of a capital facilities project for which the general assembly appropriates funds. The criteria, to be developed with the ~~department of administrative services~~ commission and higher education representatives selected by the chancellor, shall include such matters as the adequacy of the staffing levels and expertise needed for the institution to administer the project, past performance of the institution in administering such projects, and the amount of institutional or other nonstate money to be used in financing the project. The chancellor shall approve the request of any such institution of higher education that seeks to administer any such capital facilities project and meets the criteria set forth in the rules and the requirements of division (A) of this section.

(C) Any institution that administers a capital facilities

project under this section shall conduct biennial audits for the duration of the project to ensure that the institution is complying with Chapters 9., 123., and 153. of the Revised Code and that the institution is using its certification issued under section ~~123.17~~ 123.24 of the Revised Code appropriately. The chancellor, in consultation with higher education representatives selected by the chancellor, shall adopt rules in accordance with Chapter 119. of the Revised Code that establish criteria for the conduct of the audits. The criteria shall include documentation necessary to determine compliance with Chapters 9., 123., and 153. of the Revised Code and a method to determine whether an institution is using its certification issued under section ~~123.17~~ 123.24 of the Revised Code appropriately.

(D) The chancellor, in consultation with higher education representatives selected by the chancellor, shall adopt rules in accordance with Chapter 119. of the Revised Code establishing criteria for monitoring capital facilities projects administered by institutions under this section. The criteria shall include the following:

(1) Conditions under which the chancellor may revoke the authority of an institution to administer a capital facilities project under this section, including the failure of an institution to maintain a sufficient number of employees who have successfully completed the certification program under section ~~123.17~~ 123.24 of the Revised Code;

(2) A process for institutions to remedy any problems found by an audit conducted pursuant to division (C) of this section, including the improper use of state funds or violations of Chapter 9., 123., or 153. of the Revised Code.

(E) If the chancellor revokes an institution's authority to administer a capital facilities project, the ~~department of administrative services~~ commission shall administer the capital

facilities project. The chancellor also may require an institution, for which the chancellor revoked authority to administer a capital facilities project, to acquire a new local administration competency certification pursuant to section ~~123.17~~ 123.24 of the Revised Code.

Sec. 3345.54. (A) As used in this section:

(1) "Auxiliary facilities" has the same meaning as in section 3345.12 of the Revised Code.

(2) "Conduit entity" means an organization described in section 501(c)(3) of the Internal Revenue Code qualified as a public charity under section 509(a)(2) or 509(a)(3) of the Internal Revenue Code, or any other appropriate legal entity selected by the state institution, whose corporate purpose allows it to perform the functions and obligations of a conduit entity pursuant to the terms of a financing agreement.

(3) "Conveyed property" means auxiliary facilities conveyed by a state institution to a conduit entity pursuant to a financing agreement.

(4) "Financing agreement" means a contract described in division (C) of this section.

(5) "Independent funding source" means a private entity that enters into a financing agreement with a conduit entity and a state institution.

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

(B) The board of trustees of a state institution, with the approval of the chancellor of the Ohio board of regents and the controlling board, may enter into a financing agreement with a conduit entity and an independent funding source selected either through a competitive selection process or by direct negotiations,

and may convey to the conduit entity title to any auxiliary facilities owned by the state institution pursuant to the terms of a financing agreement.

(C) A financing agreement under this section is a written contract entered into among a state institution, a conduit entity, and an independent funding source that provides for:

(1) The conveyance of auxiliary facilities owned by a state institution to the conduit entity for consideration deemed adequate by the state institution;

(2) The lease of the conveyed property by the conduit entity to the independent funding source and leaseback of the conveyed property to the conduit entity for a term not to exceed ninety-nine years;

(3) Such other terms and conditions that may be negotiated and agreed upon by the parties, including, but not limited to, terms regarding:

(a) Payment to the state institution by the conduit entity of revenues received by it from the operations of the conveyed property in excess of the payments it is required to make to the independent funding source under the lease-leaseback arrangement described in division (C)(2) of this section;

(b) Pledge, assignment, or creation of a lien in favor of the independent funding source by the conduit entity of any revenues derived from the conveyed property;

(c) Reverter or conveyance of title to the conveyed property to the state institution when the conveyed property is no longer subject to a lease with the independent funding source.

(4) Terms and conditions required by the chancellor or the controlling board as a condition of approval of the financing agreement.

(D) The state institution and the conduit entity may enter into such other management agreements or other contracts regarding the conveyed property the parties deem appropriate, including agreements pursuant to which the state institution may maintain or administer the conveyed property and collect and disburse revenues from the conveyed property on behalf of the conduit entity.

(E) The parties may modify or extend the term of the financing agreement with the approval of the chancellor and the controlling board.

(F) The conveyed property shall retain its exemption from property taxes and assessments as though title to the conveyed property were held by the state institution during any part of a tax year that title is held by the state institution or the conduit entity and, if held by the conduit entity, remains subject to the lease-leaseback arrangement described in division (C)(2) of this section. However, as a condition of the continued exemption of the conveyed property during the term of the lease-leaseback arrangement the conduit entity shall apply for and maintain the exemption as provided by law.

(G) Nothing in this section is intended to abrogate, amend, limit, or replace any existing authority state institutions may have with respect to the conveyance, lease, lease-leaseback, finance, or acquisition of auxiliary facilities including, but not limited to, authority granted under sections 3345.07, 3345.11, and 3345.12 of the Revised Code.

Sec. 3345.69. (A) As used in this section:

(1) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(2) "Board of trustees of a state institution of higher education" has the same meaning as in section 3345.61 of the

Revised Code.

(B) The chairperson of the interuniversity council of Ohio and the secretary of the Ohio association of community colleges shall assist in coordinating the organization and operation of a committee to carry out this section. The committee shall be comprised of the presidents of the state institutions of higher education or their designees. The committee, in consultation with the ~~office of energy services of the department of administrative services~~ Ohio facilities construction commission, shall develop guidelines for the board of trustees of each state institution of higher education to use in ensuring energy efficiency and conservation in on- and off-campus buildings. ~~Initial guidelines shall be adopted not later than ninety days after the effective date of this section.~~ At a minimum, guidelines under this section shall do all of the following:

(1) Include a goal to reduce on- and off-campus building energy consumption by at least twenty per cent by 2014, using calendar year 2004 as the benchmark year, while recognizing the diverse nature and different energy demands and uses of such buildings and measures already taken to increase building energy efficiency and conservation;

(2) Prescribe minimum energy efficiency and conservation standards for any new, on- or off-campus capital improvement project with a construction cost of one hundred thousand dollars or more, which standards shall be based on general building type and cost-effectiveness;

(3) Prescribe minimum energy efficiency and conservation standards for the leasing of an off-campus space of at least twenty-thousand square feet;

(4) Incorporate best practices into energy efficiency and conservation standards and plans;

(5) Provide that each board develop its own fifteen-year plan for phasing in energy efficiency and conservation projects;

(6) Provide that project impact assessments include the fiscal effects of energy efficiency and conservation recommendations and plans;

(7) Establish mechanisms for each board to report periodically to the committee on its progress relative to the guidelines.

(C) The board of trustees of a state institution of higher education shall adopt rules under section 111.15 of the Revised Code to carry out the guidelines established pursuant to division (B) of this section, including in the execution of the board's authority under sections 3345.62 to 3345.66 of the Revised Code.

Sec. 3345.692. (A) Not later than September 15, 2010, and the fifteenth day of September each year thereafter, a state institution of higher education shall prepare and submit to the chancellor of the board of regents a report that describes the number and types of biobased products purchased under section 125.092 of the Revised Code and the amount of money spent by the state institution of higher education for those biobased products.

(B) ~~Not later than September 30, 2010, and the thirtieth day of September each year thereafter, the chancellor of the board of regents shall prepare and submit to the governor, the president of the senate, and the speaker of the house of representatives a report that describes the number and types of biobased products purchased under section 125.092 of the Revised Code and the amount of money spent by state institutions of higher education for those biobased products as that information is provided to the chancellor under division (A) of this section.~~

~~(C)~~ As used in this section, "state institution of higher

education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3347.03. Each commission created by section 3347.01 of the Revised Code may acquire property of any kind by purchase, gift, or devise and hold and use any such property, or may use state lands at their respective universities upon consent of the respective boards of trustees thereof, for the erection, remodeling, or improving and equipping of buildings for suitable housing, dormitory, dining hall, and recreational accommodations, referred to as "buildings" in sections 3347.03 to 3347.08 of the Revised Code, for students, instructors, members of the faculty, the administration and maintenance staff of the universities with which each commission is identified, and their families. The construction, remodeling, or improving of any such buildings shall be in accordance with plans and specifications approved by the commission and with sections 153.01 and 153.04 to 153.20 of the Revised Code, except that the commission may act in all instances where the ~~department of administrative services~~ Ohio facilities construction commission is mentioned in such sections.

Sec. 3356.10. During the five-year period after the effective date of this section, the governor may execute deeds in the name of the state conveying to one or more purchasers and the purchasers' heirs and assigns or successors and assigns all of the state's right, title, and interest in any or all parcels of real estate held for the use and benefit of Youngstown state university and located in the city of Youngstown, Mahoning county, in an area known as "smokey hollow" and bounded on the north by the east-bound service road of the Madison avenue expressway, on the east by Andrews avenue, on the south by Rayen avenue, and on the west by Wick avenue. The parcel or parcels of real estate may be transferred individually or as a group or multiple groups to a

single purchaser or to multiple purchasers.

The consideration for conveyance of the parcel or parcels of real estate shall be a purchase price and any terms and conditions acceptable to the board of trustees of Youngstown state university. The consideration may include in whole or in part the benefit that will inure to the university and the students attending the university from development of a mixed-use urban neighborhood that will provide convenient housing, retail outlets, parks, and employment opportunities on a site adjacent to the university's core campus.

All costs of the conveyance of the parcel or parcels of real estate shall be paid by the board of trustees of the Youngstown state university unless otherwise specified in the agreement for transfer of the property.

Upon adoption of a resolution by the board of trustees of Youngstown state university specifically describing the parcel or parcels of real estate to be conveyed, identifying the purchaser or purchasers of the real estate, and specifying the consideration paid or to be paid, the auditor of state, with the assistance of the attorney general, shall prepare a deed or deeds to the parcel or parcels of real estate described in the resolution. The deed or deeds shall state the consideration specified in the resolution. The deed or deeds shall be executed by the governor in the name of the state, countersigned by the secretary of state, sealed with the great seal of the state, presented in the office of the auditor of state for recording, and delivered to the purchaser or purchasers. The purchaser or purchasers shall present the deed or deeds for recording in the office of the Mahoning county recorder.

Each deed to any property described in this section shall contain any exceptions, reservations, or conditions and any right of reentry or reverter clause specified in the resolution. Any

exceptions, reservations, or conditions or any right of reentry or reverter clause contained in any deed authorized by this section may be released by the university without the necessity of further legislation, provided the release is specifically authorized by the board of trustees of Youngstown state university.

The net proceeds of the sale of the parcel or parcels of real estate shall be paid to Youngstown state university and deposited in university accounts for purposes to be determined by the board of trustees.

Sec. 3366.05. The issuing authority, as an eligible not-for-profit holder of federal education loans, may act as an eligible not-for-profit servicer of certain student loans owned by the federal government under Section 2212 of the "Health Care and Education Reconciliation Act of 2010," Pub. L. No. 111-152. The issuing authority is authorized to take such actions and to enter into such contracts and to execute all instruments necessary or appropriate to act as an eligible not-for-profit servicer. Notwithstanding division (C) of section 3366.03 and division (B) of section 3366.04 of the Revised Code, revenues received by the issuing authority under this section shall be deposited in an account in the custody of the treasurer of state that is not part of the state treasury and shall be used to pay administrative costs incurred by the issuing authority. Unexpended amounts shall be deposited in the state treasury and credited to the treasurer of state's administrative fund created under section 113.20 of the Revised Code.

Sec. 3375.405. (A) As used in this section, "energy conservation measure" means the construction of, installation or modification of an installation in, or remodeling of, a new or existing building, to reduce energy consumption. It includes:

(1) Insulation of the building structure and of systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(3) Automatic energy control systems;

(4) Heating, ventilating, or air conditioning system modifications or replacements;

(5) Caulking and weather-stripping;

(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such an increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;

(7) Energy recovery systems;

(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(9) Acquiring, constructing, furnishing, equipping, improving the site of, or otherwise improving a central utility plant to provide heating and cooling services to a building together with distribution piping and ancillary distribution controls, equipment, and related facilities from the central utility plant to the building; and

(10) Any other construction, modification, installation, or remodeling approved by a board of library trustees as an energy conservation measure.

(B) For the purpose of evaluating library buildings for

energy conservation measures, a board of library trustees appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the Revised Code may contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures for an energy conservation report. Such a report shall include all of the following:

(1) Analyses of the energy needs of library buildings and recommendations for building installations, modifications of existing installations, or building remodeling that would significantly reduce energy consumption in the buildings;

(2) Estimates of all costs of the recommended installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, and repair;

(3) Estimates of the amounts by which energy consumption could be reduced;

(4) The interest rate used to estimate the costs of any energy conservation measures that are to be financed by the library;

(5) The average system life of the energy conservation measures;

(6) Estimates of the likely savings that will result from the reduction in energy consumption over the average system life of the energy conservation measures, including the methods used to estimate the savings; and

(7) A certification under the seal of a registered professional engineer that the energy conservation report uses reasonable methods of analysis and estimation.

(C)(1) A board of library trustees appointed pursuant to

section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the Revised Code desiring to implement energy conservation measures may proceed under any of the following methods:

(a) Procure the energy conservation measures in any manner authorized by existing authority.

(b) Advertise for bids using an energy conservation report or any part of an energy conservation report prepared under division (B) of this section, and, except as otherwise provided in this section, comply with competitive bidding requirements applicable to the board of library trustees.

(c) Notwithstanding any requirement in the Revised Code that requires competitive bidding or specifies bidding procedures, request proposals from at least three vendors for the implementation of energy conservation measures. A request for proposals shall require the vendor that is awarded a contract under division (C)(2)(b) of this section to prepare an energy conservation report in accordance with division (B) of this section.

Prior to sending any vendor a copy of any request for proposals, the board of library trustees shall advertise its intent to request proposals for the installation of energy conservation measures in a newspaper of general circulation within the territorial boundaries of the political subdivision or district over which it has jurisdiction of free public library services once a week for two consecutive weeks. The notice shall state that the board of trustees intends to request proposals for the installation of energy conservation measures, indicate the date on which the request for proposals will be mailed to vendors, which shall be at least ten days after the second publication in the newspaper, and state that any vendor interested in receiving the request for proposals shall submit written notice to the board of library trustees not later than noon of the day on which the

request for proposals is to be mailed.

(2)(a) Upon receiving bids under division (C)(1)(b) of this section, the board of library trustees shall analyze them and select the lowest and best bid or bids most likely to result in the greatest energy savings considering the cost of the project and the board of library trustees' ability to pay for the improvements with current revenues or by financing the improvements.

(b) Upon receiving proposals under division (C)(1)(c) of this section, the board of library trustees shall analyze the proposals and the vendors' qualifications and select the most qualified vendor to prepare an energy conservation report in accordance with division (B) of this section. After receipt and review of the energy conservation report, the board of library trustees may award a contract to the selected vendor to install the energy conservation measures that are most likely to result in the greatest energy savings considering the cost of the project and the board of library trustees' ability to pay for the improvements with current revenues or by financing the improvements.

(c) The awarding of a contract to install energy conservation measures under division (C)(2)(a) or (b) of this section shall be conditioned upon a finding by the board of library trustees that the amount of money spent on energy conservation measures is not likely to exceed the amount of money the library would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the energy conservation report. In making such a finding, the board of trustees may take into account the increased costs due to inflation as shown in the energy conservation report. Nothing in this division prohibits a board of library trustees from rejecting all bids or proposals under division (C)(1)(b) or (c) of this section or from selecting more than one bid or

proposal.

(D) A board of library trustees appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the Revised Code may contract for the purchase and installation of energy conservation measures as provided in division (C) of section 3375.40 of the Revised Code.

Sec. 3383.02. (A) There is hereby created the Ohio cultural facilities commission. The commission shall engage in and provide for the development, performance, and presentation or making available of culture and professional sports and athletics to the public in this state, and the provision of training or education in culture, by the exercise of its powers under this chapter, including the provision, operation, management, and cooperative use of Ohio cultural facilities and Ohio sports facilities. The commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers conferred by this chapter are essential public functions and public purposes of the state and of state government. The commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by this chapter; however, it does not have and shall not exercise the power of eminent domain.

(B) The commission shall consist of twelve members, nine of whom shall be voting members and three of whom shall be nonvoting members. The nine voting members shall be appointed by the governor, with the advice and consent of the senate, from different geographical regions of the state. In addition, one of the voting members shall represent the ~~state architect~~ Ohio facilities construction commission. Not more than five of the

members appointed by the governor shall be affiliated with the same political party. The nonvoting members shall be the staff director of the Ohio arts council, a member of the senate appointed by the president of the senate, and a member of the house of representatives appointed by the speaker of the house.

(C) Of the five initial appointments made by the governor, one shall be for a term expiring December 31, 1989, two shall be for terms expiring December 31, 1990, and two shall be for terms expiring December 31, 1991. Of the initial appointments of the sixth and seventh voting members made by the governor, one shall be for a term expiring December 31, 2003, and one shall be for a term expiring December 31, 2004. Of the initial appointments of the eighth and ninth voting members made by the governor, one shall be for a term expiring December 31, 2007, and one shall be for a term expiring December 31, 2008. These voting members shall be appointed within sixty days after ~~the effective date of this amendment~~ September 29, 2005. Thereafter, each such term shall be for three years, commencing on the first day of January and ending on the thirty-first day of December. Each appointment by the president of the senate and by the speaker of the house of representatives shall be for the balance of the then legislative biennium. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) Members of the commission shall serve without compensation.

(E) Organizational meetings of the commission shall be held at the first meeting of each calendar year. At each organizational meeting, the commission shall elect from among its voting members a chairperson, a vice-chairperson, and a secretary-treasurer, who shall serve until the next annual meeting. The commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings.

(F) Five voting members of the commission constitute a quorum, and the affirmative vote of five members is necessary for approval of any action taken by the commission. A vacancy in the membership of the commission does not impair a quorum from exercising all the rights and performing all the duties of the commission. Meetings of the commission may be held anywhere in the state, and shall be held in compliance with section 121.22 of the Revised Code.

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

(H) The commission shall file an annual report of its activities and finances with the governor, director of budget and management, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees.

(I) There is hereby established in the state treasury the Ohio cultural facilities commission administration fund. All revenues of the commission shall be credited to that fund and to any accounts created in that fund with the commission's approval. All expenses of the commission, including reimbursement of, or payment to, any other fund or any governmental agency for advances

made or services rendered to or on behalf of the commission, shall be paid from that fund as determined by or pursuant to directions of the commission. All investment earnings of that fund shall be credited to it and shall be allocated among any accounts created in the fund in the manner determined by the commission.

(J) Title to all real property and lesser interests in real property acquired by the commission, including leasehold and other interests, pursuant to this chapter shall be taken in the name of the state and shall be held for the use and benefit of the commission. The commission shall not mortgage such real property and interests in real property. Title to other property and interests in it acquired by the commission pursuant to this chapter shall be taken in its name.

Sec. 3383.07. (A) The ~~department of administrative services~~ Ohio facilities construction commission shall provide for the construction of a cultural project in conformity with Chapter 153. of the Revised Code, except as follows:

(1) For a cultural project other than a state historical facility, construction services may be provided on behalf of the state by the Ohio cultural facilities commission, or by a governmental agency or a cultural organization that occupies, will occupy, or is responsible for the Ohio cultural facility, as determined by the Ohio cultural facilities commission. For a project receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of construction services by such an agency or organization, but not the authority to disapprove that provision. Construction services to be provided by a governmental agency or a cultural organization shall be specified in an agreement between the Ohio cultural facilities commission and the governmental agency or cultural

organization. The agreement, or any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(2) For a cultural project that is a state historical facility, construction services may be provided by the Ohio cultural facilities commission or by a cultural organization that occupies, will occupy, or is responsible for the facility, as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of construction services by such an organization, but not the authority to disapprove that provision. The construction services to be provided by the cultural organization shall be specified in an agreement between the Ohio cultural facilities commission and the cultural organization. That agreement, and any actions taken under it, are not subject to Chapter 123., 153., or 4115. of the Revised Code.

(B) For an Ohio sports facility that is financed in part by obligations issued pursuant to Chapter 154. of the Revised Code, construction services shall be provided on behalf of the state by or at the direction of the governmental agency or nonprofit corporation that will own or be responsible for the management of the facility, all as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of construction services by or at the direction of the agency or corporation, but not the authority to disapprove that provision. Any construction services to be provided by a governmental agency or nonprofit corporation shall

be specified in an agreement between the Ohio cultural facilities commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(C) General building services for an Ohio cultural facility shall be provided by the Ohio cultural facilities commission or by a cultural organization that occupies, will occupy, or is responsible for the facility, as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of general building services by such an organization, but not the authority to disapprove that provision. Alternatively, the Ohio building authority may elect to provide those services for Ohio cultural facilities financed with proceeds of state bonds issued by the authority. The costs of management and general building services shall be paid by the cultural organization that occupies, will occupy, or is responsible for the facility as provided in an agreement between the Ohio cultural facilities commission and the cultural organization, except that the state may pay for general building services for state-owned cultural facilities constructed on state-owned land.

General building services for an Ohio sports facility shall be provided by or at the direction of the governmental agency or nonprofit corporation that will be responsible for the management of the facility, all as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to

approve the provision of general building services by or at the direction of the agency or corporation, but not the authority to disapprove that provision. Any general building services to be provided by a governmental agency or nonprofit corporation for an Ohio sports facility shall be specified in an agreement between the Ohio cultural facilities commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(D) This division does not apply to a state historical facility. No state funds, including any state bond proceeds, shall be spent on the construction of any cultural project under this chapter unless, with respect to the cultural project and to the Ohio cultural facility related to the project, all of the following apply:

(1) The Ohio cultural facilities commission has determined that there is a need for the cultural project and the Ohio cultural facility related to the project in the region of the state in which the Ohio cultural facility is located or for which the facility is proposed. For a project receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine need but only in the affirmative.

(2) The Ohio cultural facilities commission has determined that, as an indication of substantial regional support for the cultural project, the cultural organization has made provision satisfactory to the Ohio cultural facilities commission, in its sole discretion, for local contributions amounting to not less than fifty per cent of the total state funding for the cultural project. For a project receiving a state appropriation of fifty

thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine the adequacy of the regional support but only in the affirmative.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the cultural project, or for rental payments relating to the financing of the construction of the cultural project. Authorization to spend money, or an appropriation, for planning the cultural project does not constitute authorization to spend money on, or an appropriation for, construction of the cultural project.

(E) No state funds, including any state bond proceeds, shall be spent on the construction of any state historical facility under this chapter unless the general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the state historical project related to the facility, or for rental payments relating to the financing of the construction of the state historical project. Authorization to spend money, or an appropriation, for planning the state historical project does not constitute authorization to spend money on, or an appropriation for, the construction of the state historical project.

(F) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply:

(1) The Ohio cultural facilities commission has determined that there is a need for the facility in the region of the state for which the facility is proposed to provide the function of an Ohio sports facility as provided for in this chapter. For a

facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine need but only in the affirmative.

(2) As an indication of substantial local support for the facility, the Ohio cultural facilities commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the Ohio cultural facilities commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to evaluate the financial and development plan and the contribution and to determine their adequacy but only in the affirmative.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.

(4) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and athletic events to the

public at the facility.

(G) In addition to the requirements of division (F) of this section, no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility that is a motorsports complex, unless, with respect to that facility, both of the following apply:

(1) Motorsports events shall be presented at the facility pursuant to a lease entered into with the owner of the facility. The term of the lease shall be for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of state bonds as determined using the guidelines for maximum maturities as provided under divisions (B) and (C) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the director to the Ohio cultural facilities commission and to the treasurer of state.

(2) Any motorsports organization that commits to using the facility for an established period of time shall give the political subdivision in which the facility is located not less than six months' advance notice if the organization intends to cease utilizing the facility prior to the expiration of that established period. Such a motorsports organization shall be liable to the state for any state funds used on the construction costs of the facility.

(H) In addition to the requirements of division (F) of this section, no state bond proceeds shall be spent on any Ohio sports facility that is a tennis facility, unless the owner or manager of the facility provides contractual commitments from a national or international professional tennis organization in a form acceptable to the cultural facilities commission that assures that

one or more sanctioned professional tennis events will be presented at the facility during each year that the bonds remain outstanding.

Sec. 3517.20. (A)(1) As used in this section:

(a) "Political publication for or against a candidate" means a notice, placard, advertisement, sample ballot, brochure, flyer, direct mailer, or other form of general publication that is designed to promote the nomination, election, or defeat of a candidate.

(b) "Political publication for or against an issue" means a notice, placard, advertisement, sample ballot, brochure, flyer, direct mailer, or other form of general publication that is designed to promote the adoption or defeat of a ballot issue or question or to influence the voters in an election.

(c) "Public political advertising" means newspapers, magazines, outdoor advertising facilities, direct mailings, or other similar types of general public political advertising, or flyers, handbills, or other nonperiodical printed matter.

(d) "Statewide candidate" has the same meaning as in section 3517.102 of the Revised Code.

(e) "Legislative candidate" means a candidate for the office of member of the general assembly.

(f) "Local candidate" means a candidate for an elective office of a political subdivision of this state.

(g) "Legislative campaign fund" has the same meaning as in section 3517.01 of the Revised Code.

(h) "Limited political action committee" means a political action committee of fewer than ten members.

(i) "Limited political contributing entity" means a political

contributing entity of fewer than ten members.

(j) "Designated amount" means one hundred dollars in the case of a local candidate or a local ballot issue, two hundred fifty dollars in the case of a legislative candidate, or five hundred dollars in the case of a statewide candidate or a statewide ballot issue.

(k) "To issue" includes to print, post, distribute, reproduce for distribution, or cause to be issued, printed, posted, distributed, or reproduced for distribution.

(l) "Telephone bank" means more than five hundred telephone calls of an identical or substantially similar nature within any thirty-day period, whether those telephone calls are made by individual callers or by recording.

(2)(a) No candidate, ~~campaign committee,~~ legislative campaign fund, political party, or other entity, except a political action committee ~~or~~, a political contributing entity, or a campaign committee, shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public political advertising, unless the name and residence or business address of the candidate or the chairperson, treasurer, or secretary of the ~~campaign committee,~~ legislative campaign fund, political party, or other entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication appears in a conspicuous place on that political publication or is contained within that political communication.

(b) No campaign committee shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public

political advertising, unless the name of the campaign committee appears in a conspicuous place on that political publication or is contained within that political communication.

(3) No limited political action committee or limited political contributing entity shall do either of the following unless the name and residence or business address of the chairperson, treasurer, or secretary of the limited political action committee or limited political contributing entity involved appears in a conspicuous place in the political publication for or against a candidate described in division (A)(3)(a) of this section or is contained within the political communication described in division (A)(3)(b) of this section:

(a) Issue a form of political publication for or against a candidate that costs in excess of the designated amount or that is issued in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, a political contributing entity with ten or more members, or a limited political action committee or limited political contributing entity that spends in excess of the designated amount on a related or the same or similar political publication for or against a candidate;

(b) Make an expenditure in excess of the designated amount in support of or opposition to a candidate or make an expenditure in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, a political contributing entity with ten or more members, or a limited political action committee or limited political contributing entity that spends in excess of the designated amount in support of or opposition to the same candidate, for the purpose of financing political communications

in support of or opposition to that candidate through public political advertising.

(4) No political action committee with ten or more members and no political contributing entity with ten or more members shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the political action committee or political contributing entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication through public political advertising appears in a conspicuous place in that political publication or is contained within that political communication.

(5)(a) No corporation, labor organization, ~~campaign committee,~~ legislative campaign fund, political party, or other entity, except a political action committee or a campaign committee, shall issue a form of political publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the corporation, labor organization, ~~campaign committee,~~ legislative campaign fund, political party, or other entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication through public political advertising appears in a conspicuous place in that political publication or is contained within that political communication.

(b) No campaign committee shall issue a form of political

publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name of the campaign committee appears in a conspicuous place in that political publication or is contained within that political communication.

(6) No limited political action committee shall do either of the following unless the name and residence or business address of the chairperson, treasurer, or secretary of the limited political action committee involved appears in a conspicuous place in the political publication for or against a ballot issue described in division (A)(6)(a) of this section or is contained within the political communication described in division (A)(6)(b) of this section:

(a) Issue a form of political publication for or against a ballot issue that costs in excess of the designated amount or that is issued in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, or a limited political action committee that spends in excess of the designated amount for a related or the same or similar political publication for or against an issue;

(b) Make an expenditure in excess of the designated amount in support of or opposition to a ballot issue or make an expenditure in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, or a limited political action committee that spends in excess of the designated amount in support of or opposition to the same ballot issue, for the purpose of financing political communications in support of or opposition to that

ballot issue through public political advertising.

(7) No political action committee with ten or more members shall issue a form of political publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the political action committee that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication appears in a conspicuous place in that political publication or is contained within that political communication.

(8) The disclaimer "paid political advertisement" is not sufficient to meet the requirements of this section.

(9) If the political publication described in division (A) of this section is issued by the regularly constituted central or executive committee of a political party that is organized as provided in this chapter, it shall be sufficiently identified if it bears the name of the committee and its chairperson or treasurer.

(10) If more than one piece of printed matter or printed political communications are mailed as a single packet, the requirements of division (A) of this section are met if one of the pieces of printed matter or printed political communications in the packet contains the name and residence or business address of the chairperson, treasurer, or secretary of the organization or entity that issues or is responsible for the printed matter or other printed political communications<u>, except that if a campaign committee mails more than one piece of printed matter or printed political communications as a single packet, the requirements of division (A) of this section are met if one of the pieces of printed matter or printed political communications in the packet</u>

contains the name of the campaign committee.

(11) This section does not apply to the transmittal of personal correspondence that is not reproduced by machine for general distribution.

(12) The secretary of state, by rule, may exempt from the requirements of this section, printed matter and certain other kinds of printed communications such as campaign buttons, balloons, pencils, or similar items, the size or nature of which makes it unreasonable to add an identification or disclaimer.

(13) The disclaimer or identification described in division (A) of this section, when paid for by a campaign committee, shall be identified by the words "paid for by" followed by the name ~~and address~~ of the campaign committee and the appropriate officer of the committee, identified by name and title. The identification or disclaimer may use reasonable abbreviations for common terms such as "treasurer" or "committee".

(B)(1) No candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other entity shall utter or cause to be uttered, over the broadcasting facilities of any radio or television station within this state, any communication that is designed to promote the nomination, election, or defeat of a candidate, or the adoption or defeat of an issue or to influence the voters in an election, unless the speaker identifies the speaker with the speaker's name and residence address or unless the communication identifies the chairperson, treasurer, or secretary of the organization responsible for the communication with the name and residence or business address of that officer, except that communications by radio need not broadcast the residence or business address of the officer. However, a radio station, for a period of at least six months, shall keep the

residence or business address on file and divulge it to any person upon request.

No person operating a broadcast station or an organ of printed media shall broadcast or print a paid political communication that does not contain the identification required by this section.

(2) Division (B) of this section does not apply to any communications made on behalf of a radio or television station or network by any employee of such radio or television station or network while acting in the course of the employee's employment.

(3) No candidate or entity described in division (B)(1) of this section shall use or cause to be used a false, fictitious, or fraudulent name or address in the making or issuing of a publication or communication included within the provisions of this section.

(C) No candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other person or entity shall conduct a telephone bank for the purpose of promoting the nomination, election, or defeat of a candidate or the adoption or defeat of an issue or to influence the voters in an election, unless the call includes a disclaimer that identifies the name of the candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other person or entity paying for the telephone bank.

(D) Before a prosecution may commence under this section, a complaint shall be filed with the Ohio elections commission under section 3517.153 of the Revised Code. After the complaint is

filed, the commission shall proceed in accordance with sections 3517.154 to 3517.157 of the Revised Code.

Sec. 3701.021. (A) The ~~public~~ director of health ~~council~~ shall adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to carry out sections 3701.021 to 3701.0210 of the Revised Code, including, but not limited to, rules to establish the following:

(1) Medical and financial eligibility requirements for the program for medically handicapped children;

(2) Eligibility requirements for providers of services for medically handicapped children;

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A)(2) of this section;

(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;

(5) Standards for the provision of service coordination by the department of health and city and general health districts;

(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;

(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;

(8) Criteria for payment of approved providers who provide services for medically handicapped children;

(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;

(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;

(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;

(12) Eligibility requirements for the hemophilia program, including income and hardship requirements;

(13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas.

(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to 3701.0210 of the Revised Code.

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the ~~public~~ director of health ~~council~~ pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for

medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the department of health shall authorize a provider or providers to provide to any Ohio resident under twenty-one years of age, without charge to the resident or the resident's family and without restriction as to the economic status of the resident or the resident's family, diagnostic services necessary to determine whether the resident has a medically handicapping or potentially medically handicapping condition.

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the medical assistance program established under section 5111.01 of the Revised Code. No provider shall charge a medically handicapped child or the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not

take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the department may authorize payment of health insurance premiums on behalf of eligible children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost-effective.

(E) The department of health shall pay, from appropriations to the department, any necessary expenses, including but not limited to, expenses for diagnosis, treatment, service coordination, supportive services, transportation, and accessories and their upkeep, provided to medically handicapped children, provided that the provision of the goods or services is authorized by the department under division (B) or (D) of this section. Money appropriated to the department of health may also be expended for reasonable administrative costs incurred by the program. The department of health also may purchase liability insurance covering the provision of services under the program for medically handicapped children by physicians and other health care professionals.

Payments made to providers by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished to eligible recipients shall be made in accordance with rules adopted by the ~~public~~ director of health ~~council~~ pursuant to division (A) of section 3701.021 of the Revised Code.

The departments of health and job and family services shall jointly implement procedures to ensure that duplicate payments are not made under the program for medically handicapped children and the medical assistance program established under section 5111.01 of the Revised Code and to identify and recover duplicate payments.

(F) At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or the child's parent or guardian shall disclose the identity of any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the

department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medical assistance program established under section 5111.01 of the Revised Code shall be considered payment in full of the amount determined under division (E) of this section.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who have cystic fibrosis and who meet the eligibility requirements established ~~by the~~ in rules ~~of~~ adopted by the ~~public~~ director of health ~~council~~ pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents',

or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

(J)(1) The department of health may establish a manufacturer discount program under which a manufacturer of a drug or nutritional formula is permitted to enter into an agreement with the department to provide a discount on the price of the drug or nutritional formula distributed to medically handicapped children participating in the program for medically handicapped children. The program shall be administered in accordance with rules adopted under section 3701.021 of the Revised Code.

(2) If a manufacturer enters into an agreement with the department as described in division (J)(1) of this section, the manufacturer and the department may negotiate the amount and terms of the discount.

(3) In lieu of establishing a discount program as described in division (J)(1) of this section, the department and a manufacturer of a drug or nutritional formula may discuss a donation of drugs, nutritional formulas, or money by the manufacturer to the department.

Sec. 3701.024. (A)(1) Under a procedure established in rules

adopted under section 3701.021 of the Revised Code, the department of health shall determine the amount each county shall provide annually for the program for medically handicapped children, based on a proportion of the county's total general property tax duplicate, not to exceed one-tenth of a mill, and charge the county for any part of expenses incurred under the program for treatment services on behalf of medically handicapped children having legal settlement in the county that is not paid from federal funds or through the medical assistance program established under section 5111.01 of the Revised Code. The department shall not charge the county for expenses exceeding the difference between the amount determined under division (A)(1) of this section and any amounts retained under divisions (A)(2) and (3) of this section.

All amounts collected by the department under division (A)(1) of this section shall be deposited into the state treasury to the credit of the medically handicapped children-county assessment fund, which is hereby created. The fund shall be used by the department to comply with sections 3701.021 to 3701.028 of the Revised Code.

(2) The department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow each county to retain up to ten per cent of the amount determined under division (A)(1) of this section to provide funds to city or general health districts of the county with which the districts shall provide service coordination, public health nursing, or transportation services for medically handicapped children.

(3) In addition to any amount retained under division (A)(2) of this section, the department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow counties that it determines have significant numbers of potentially eligible medically handicapped children to retain an amount equal

to the difference between:

(a) Twenty-five per cent of the amount determined under division (A)(1) of this section;

(b) Any amount retained under division (A)(2) of this section.

Counties shall use amounts retained under division (A)(3) of this section to provide funds to city or general health districts of the county with which the districts shall conduct outreach activities to increase participation in the program for medically handicapped children.

(4) Prior to any increase in the millage charged to a county, the ~~public~~ director of health ~~council~~ shall hold a public hearing on the proposed increase and shall give notice of the hearing to each board of county commissioners that would be affected by the increase at least thirty days prior to the date set for the hearing. Any county commissioner may appear and give testimony at the hearing. Any increase in the millage any county is required to provide for the program for medically handicapped children shall be determined, and notice of the amount of the increase shall be provided to each affected board of county commissioners, no later than the first day of June of the fiscal year next preceding the fiscal year in which the increase will take effect.

(B) Each board of county commissioners shall establish a medically handicapped children's fund and shall appropriate thereto an amount, determined in accordance with division (A)(1) of this section, for the county's share in providing medical, surgical, and other aid to medically handicapped children residing in such county and for the purposes specified in divisions (A)(2) and (3) of this section. Each county shall use money retained under divisions (A)(2) and (3) of this section only for the purposes specified in those divisions.

Sec. 3701.025. There is hereby created the medically handicapped children's medical advisory council consisting of twenty-one members to be appointed by the director of health for terms set in accordance with rules adopted by the ~~public health council~~ director under division (A)(11) of section 3701.021 of the Revised Code. The medically handicapped children's medical advisory council shall advise the director regarding the administration of the program for medically handicapped children, the suitable quality of medical practice for providers, and the requirements for medical eligibility for the program.

All members of the council shall be licensed physicians, surgeons, dentists, and other professionals in the field of medicine, representative of the various disciplines involved in the treatment of children with medically handicapping conditions, and representative of the treatment facilities involved, such as hospitals, private and public health clinics, and private physicians' offices, and shall be eligible for the program.

Members of the council shall receive no compensation, but shall receive their actual and necessary travel expenses incurred in the performance of their official duties in accordance with the rules of the office of budget and management.

Sec. 3701.03. (A) The director of health shall perform duties that are incident to the director's position as chief executive officer of the department of health. The director shall administer the laws relating to health and sanitation and the rules of the department of health. The director may designate employees of the department and, during a public health emergency, other persons to administer the laws and rules on the director's behalf.

(B) Nothing in this section authorizes any action that

prevents the fulfillment of duties or impairs the exercise of authority established by law for any other person or entity.

~~(C) The director shall prepare sanitary and public health rules for consideration by the public health council and submit to the council recommendations for new legislation. The director shall sit at meetings of the council but shall have no vote.~~

Sec. 3701.05. The director of health shall keep ~~the public health council,~~ health officials~~,~~ and the general public fully informed in a printed annual report in regard to the work of the department of health and on the progress that is being made in studying the cause and prevention of disease and such kindred subjects as may contribute to the welfare of the people of the state.

Sec. 3701.07. (A) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code defining and classifying hospitals and dispensaries and providing for the reporting of information by hospitals and dispensaries. Except as otherwise provided in the Revised Code, the rules providing for the reporting of information shall not require inclusion of any confidential patient data or any information concerning the financial condition, income, expenses, or net worth of the facilities other than that financial information already contained in those portions of the medicare or medicaid cost report that is necessary for the department of health to certify the per diem cost under section 3701.62 of the Revised Code. The rules may require the reporting of information in the following categories:

(1) Information needed to identify and classify the institution;

(2) Information on facilities and type and volume of services

provided by the institution;

(3) The number of beds listed by category of care provided;

(4) The number of licensed or certified professional employees by classification;

(5) The number of births that occurred at the institution the previous calendar year;

(6) Any other information that the ~~council~~ director considers relevant to the safety of patients served by the institution.

Every hospital and dispensary, public or private, annually shall register with and report to the department of health. Reports shall be submitted in the manner prescribed in rules adopted under this division.

(B) Every governmental entity or private nonprofit corporation or association whose employees or representatives are defined as residents' rights advocates under divisions (E)(1) and (2) of section 3721.10 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code ~~and to adult care facility managers as defined in section 5119.70 of the Revised Code~~.

Sec. 3701.072. (A) As used in this chapter:

(1) "Bioterrorism" has the same meaning as in section 3701.232 of the Revised Code.

(2) "Surveillance" in the public health service means the systematic collection, analysis, interpretation, and dissemination of health data on an ongoing basis, to gain knowledge of the pattern of disease occurrence and potential in a community in order to control and prevent disease in the community.

(3) "Trauma center" has the same meaning as in section 4765.01 of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code that require a trauma center to report information to the director of health describing the trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. The ~~council's~~ director's rules may require the reporting of any information the ~~council~~ director considers necessary for an accurate description of a trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. Information reported pursuant to this division is not a public record under section 149.43 of the Revised Code.

(C) Upon request, the department of health shall provide a summary report of the ~~public health council's~~ rules adopted pursuant to this section.

(D) The director shall review all information received pursuant to this section. After reviewing the information, the director may conduct an evaluation of a trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. An evaluation conducted pursuant to this division is not a public record under section 149.43 of the Revised Code.

Sec. 3701.11. The director of health ~~and the secretary of the public health council~~ shall have power to administer oaths in all parts of the state so far as the exercise of such power is

incidental to the performance of the duties of the director ~~or of the council~~.

Sec. 3701.132. The department of health is hereby designated as the state agency to administer the "special supplemental nutrition program for women, infants, and children" established under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended. The ~~public~~ director of health ~~council~~ may adopt rules pursuant to Chapter 119. of the Revised Code as necessary for administering the program. The rules may include civil money penalties for violations of the rules.

In determining eligibility for services provided under the program, the department may use the application form established under section 5111.013 of the Revised Code for the healthy start program. The department may require applicants to furnish their social security numbers.

If the department determines that a vendor has committed an act with respect to the program that federal statutes or regulations or state statutes or rules prohibit, the department shall take action against the vendor in the manner required by 7 C.F.R. part 246, including imposition of a civil money penalty in accordance with 7 C.F.R. 246.12, or rules adopted under this section.

Sec. 3701.146. (A) In taking actions regarding tuberculosis, the director of health has all of the following duties and powers:

(1) The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure to tuberculosis.

(2) The director shall engage in tuberculosis surveillance activities, including the collection and analysis of

epidemiological information relative to the frequency of tuberculosis infection, demographic and geographic distribution of tuberculosis cases, and trends pertaining to tuberculosis.

(3) The director shall maintain a tuberculosis registry to record the incidence of tuberculosis in this state.

(4) The director may appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the director. Each tuberculosis consultant shall act in accordance with rules the director establishes and shall be responsible for advising and assisting physicians and other health care practitioners who participate in tuberculosis control activities and for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.

(B)(1) The ~~public health council~~ director shall adopt rules establishing standards for the following:

(a) Performing tuberculosis screenings;

(b) Performing examinations of individuals who have been exposed to tuberculosis and individuals who are suspected of having tuberculosis;

(c) Providing treatment to individuals with tuberculosis;

(d) Preventing individuals with communicable tuberculosis from infecting other individuals;

(e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs;

(f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state.

(2) Rules adopted pursuant to this section shall be adopted in accordance with Chapter 119. of the Revised Code and may be

consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis.

Sec. 3701.161. The director of health shall make necessary arrangements for the production and distribution of diphtheria antitoxin. Such antitoxin shall in all respects be equal in purity and potency to the standard of requirements of the United States public health service for antitoxin for interstate commerce. Diphtheria antitoxin shall be distributed in accordance with rules the ~~public health council~~ director adopts pursuant to Chapter 119. of the Revised Code.

Sec. 3701.20. (A) In accordance with rules adopted ~~by the public health council,~~ under division (C) of this section, the director of health shall establish, promote, and maintain the Ohio poison control network; designate regions within the network; and designate poison prevention and treatment centers within each region. The purposes of the network are to:

(1) Reduce the mortality resulting from and the expenditures incurred because of accidental, homicidal, suicidal, occupational, or environmental poisoning;

(2) Educate the public and health care professionals concerning the prevention and treatment of exposure to poison;

(3) Organize poison prevention and treatment activities on a regional basis to avoid duplication and waste.

(B) To be eligible for designation as a poison prevention and treatment center and to retain the designation, a center must maintain compliance with the standards established by the ~~public~~

~~health council~~ director pursuant to division (C) of this section. A poison prevention and treatment center may be operated by an individual, hospital, institution of higher education, political subdivision, association, corporation, or public or private agency.

(C) In accordance with Chapter 119. of the Revised Code, the ~~public health council~~ director shall adopt rules that do the following:

(1) Establish guidelines, based on population density and other relevant factors, and procedures to be followed ~~by the director of health~~ in designating poison control network regions and centers;

(2) Establish standards for the operation of poison prevention and treatment centers;

(3) Establish standards and procedures to be followed ~~by the director of health~~ in making grants to poison prevention and treatment centers;

(4) Establish procedures, other than those prescribed by Chapter 119. of the Revised Code, for reconsideration, at the request of the entity affected, of the denial or revocation of a designation as a poison prevention and treatment center.

(D) In accordance with rules adopted ~~by the public health council~~ under division (C) of this section, the director of health shall make grants to poison prevention and treatment centers. A center is not eligible for a grant unless, prior to receiving the grant, the entity that operates the center agrees in writing that the level of the total funds, labor, and services devoted by the entity to the center during the period of the grant will approximate, as determined by the director of health, the level of the total funds, labor, and services devoted to the center by that entity in the fiscal year preceding the fiscal year in which the

grant begins.

(E) Each poison prevention and treatment center shall do all of the following:

(1) Maintain and staff a twenty-four-hour per day, toll-free, telephone line to respond to inquiries and provide information about poison prevention and treatment and available services;

(2) Provide specialized treatment, consultation, information, and educational programs to health care professionals and the public;

(3) Compile information on the types and frequency of treatment it provides.

A center may provide the services described in divisions (E)(1) and (2) of this section either directly or through contract with other facilities, as the director of health considers appropriate. Each center shall take measures to ensure the confidentiality of information about individuals to whom treatment or services are provided.

(F) The director of health may revoke the designation of a poison treatment and control center, or deny an application for designation, if the center or applicant fails to meet or maintain the standards established ~~by rule of the public health council~~ in rules adopted under division (C) of this section. The entity seeking the designation may have the revocation or denial reconsidered in accordance with rules adopted ~~by the public health council~~ under division (C) of this section.

(G)(1) A poison prevention and treatment center, its officers, employees, volunteers, or other persons associated with the center, and a person, organization, or institution that advises or assists a poison prevention and treatment center are not liable in damages in a tort action for harm that allegedly arises from advice or assistance rendered to any person unless the

advice or assistance is given in a manner that constitutes willful or wanton misconduct or intentionally tortious conduct.

(2) This section does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a poison prevention and treatment center, its officers, employees, volunteers, or other persons associated with the center, or a person, organization, or institution that advises or assists a poison prevention and treatment center.

(3) This section does not affect, and shall not be construed as affecting, any immunities from civil liability or defenses conferred by any other section of the Revised Code or available at common law, to which a poison prevention and treatment center, its officers, employees, volunteers, or other persons associated with the center or a person, organization, or institution that advises or assists a poison prevention and treatment center may be entitled under circumstances not specified by this section.

(H) The director shall annually report to the general assembly findings and recommendations concerning the effectiveness, impact, and benefits of the poison prevention and treatment centers.

Sec. 3701.201. (A) As used in this section, "bioterrorism" has the same meaning as in section 3701.232 of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code under which a poison prevention and treatment center or other health-related entity is required to report events that may be caused by bioterrorism, epidemic or pandemic disease, or established or novel infectious agents or biological or chemical toxins posing a risk of human fatality or disability. Rules adopted under this section may require a report of any of the following:

(1) An unexpected pattern or increase in the number of telephone inquiries or requests to provide information about poison prevention and treatment and available services;

(2) An unexpected pattern or increase in the number of requests to provide specialized treatment, consultation, information, and educational programs to health care professionals and the public;

(3) An unexpected pattern or increase in the number of requests for information on established or novel infectious agents or biological or chemical toxins posing a risk of human fatality or disability that is relatively uncommon and may have been caused by bioterrorism.

(C) Each poison prevention and treatment center and other health-related entity shall comply with any reporting requirement established in rules adopted under division (B) of this section.

(D) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.21. (A) As used in this section:

(1) "Amblyopia" means reduced vision in an eye that has not received adequate use during early childhood.

(2) "501(c) organization" means an organization exempt from federal income taxation pursuant to 26 U.S.C.A. 501(a) and (c).

(B) There is hereby created in the state treasury the save our sight fund. The fund shall consist of voluntary contributions deposited as provided in section 4503.104 of the Revised Code. All investment earnings from the fund shall be credited to the fund.

(C) The director of health shall use the money in the save

our sight fund as follows:

(1) To provide support to 501(c) organizations that offer vision services in all counties of the state and have demonstrated experience in the delivery of vision services to do one or more of the following:

(a) Implement a voluntary children's vision screening training and certification program for volunteers, child care providers, nurses, teachers, health care professionals practicing in primary care settings, and others serving children;

(b) Provide materials for the program implemented under division (C)(1)(a) of this section;

(c) Develop and implement a registry and targeted voluntary case management system to determine whether children with amblyopia are receiving professional eye care and to provide their parents with information and support regarding their child's vision care;

(d) Establish a matching grant program for the purchase and distribution of protective eyewear to children;

(e) Provide vision health and safety programs and materials for classrooms.

(2) For the purpose of section 4503.104 of the Revised Code, to develop and distribute informational materials on the importance of eye care and safety to the registrar of motor vehicles and each deputy registrar;

(3) To pay costs incurred by the director in administering the fund;

(4) To reimburse the bureau of motor vehicles for the administrative costs incurred in performing its duties under section 4503.104 of the Revised Code.

(D) A 501(c) organization seeking funding from the save our

sight fund for any of the projects specified in division (C) of this section shall submit a request for the funding to the director in accordance with rules adopted under division (E) of this section. The director shall determine the appropriateness of and approve or disapprove projects for funding and approve or disapprove the disbursement of money from the save our sight fund.

(E) The ~~public health council~~ director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include the parameters of the projects specified in division (C)(1) of this section that may be funded with money in the save our sight fund and procedures for 501(c) organizations to request funding from the fund.

Sec. 3701.221. (A) The director of health shall have charge of the public health laboratory authorized by section 3701.22 of the Revised Code. The director may employ an assistant for the laboratory who shall be a person skilled in chemistry and bacteriology, and receive compensation as the director determines. All expenses of the laboratory shall be paid from appropriations made for the department of health.

(B) The ~~public health council~~ director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend or rescind, rules establishing reasonable fees for services the laboratory performs. The ~~council~~ director need not prescribe fees where the ~~council~~ director believes that charging fees would significantly and adversely affect the public health. All fees collected for services the laboratory performs shall be deposited into the state treasury to the credit of the "laboratory handling fee fund," which is hereby created for the purpose of defraying expenses of operating the laboratory.

Sec. 3701.23. (A) As used in this section, "health care

provider" means any person or government entity that provides health care services to individuals. "Health care provider" includes, but is not limited to, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, registered and licensed practical nurses, laboratory technicians, emergency medical service organization personnel, and ambulance service organization personnel.

(B) Boards of health, health authorities or officials, health care providers in localities in which there are no health authorities or officials, and coroners or medical examiners shall report promptly to the department of health the existence of any of the following:

(1) Asiatic cholera;

(2) Yellow fever;

(3) Diphtheria;

(4) Typhus or typhoid fever;

(5) As specified by the ~~public~~ director of health ~~council~~, other contagious or infectious diseases, illnesses, health conditions, or unusual infectious agents or biological toxins posing a risk of human fatality or disability.

(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.

(D) The reports required by this section shall be submitted on forms, as required by statute or rule, and in the manner the director of health prescribes.

(E) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released

in summary, statistical, or aggregate form.

Sec. 3701.232. (A) As used in this section:

(1) "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, animal, plant, or other living organism as a means of influencing the conduct of government or intimidating or coercing a population.

(2) "Pharmacist" means an individual licensed under Chapter 4729. of the Revised Code to engage in the practice of pharmacy as a pharmacist.

(3) "Pharmacy" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code under which a pharmacy or pharmacist is required to report significant changes in medication usage that may be caused by bioterrorism, epidemic or pandemic disease, or established or novel infectious agents or biological toxins posing a risk of human fatality or disability. Rules adopted under this section may require a report of any of the following:

(1) An unexpected increase in the number of prescriptions for antibiotics;

(2) An unexpected increase in the number of prescriptions for medication to treat fever or respiratory or gastrointestinal complaints;

(3) An unexpected increase in sales of, or the number of

requests for information on, over-the-counter medication to treat fever or respiratory or gastrointestinal complaints;

(4) Any prescription for medication used to treat a disease that is relatively uncommon and may have been caused by bioterrorism.

(C) No person shall fail to comply with any reporting requirement established in rules adopted under division (B) of this section.

(D) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.24. (A) As used in this section and sections 3701.241 to 3701.249 of the Revised Code:

(1) "AIDS" means the illness designated as acquired immunodeficiency syndrome.

(2) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

(3) "AIDS-related condition" means symptoms of illness related to HIV infection, including AIDS-related complex, that are confirmed by a positive HIV test.

(4) "HIV test" means any test for the antibody or antigen to HIV that has been approved by the director of health under division (B) of section 3701.241 of the Revised Code.

(5) "Health care facility" has the same meaning as in section 1751.01 of the Revised Code.

(6) "Director" means the director of health or any employee of the department of health acting on the director's behalf.

(7) "Physician" means a person who holds a current, valid certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine or surgery and osteopathic medicine and surgery.

(8) "Nurse" means a registered nurse or licensed practical nurse who holds a license or certificate issued under Chapter 4723. of the Revised Code.

(9) "Anonymous test" means an HIV test administered so that the individual to be tested can give informed consent to the test and receive the results by means of a code system that does not link the identity of the individual tested to the request for the test or the test results.

(10) "Confidential test" means an HIV test administered so that the identity of the individual tested is linked to the test but is held in confidence to the extent provided by sections 3701.24 to 3701.248 of the Revised Code.

(11) "Health care provider" means an individual who provides diagnostic, evaluative, or treatment services. Pursuant to Chapter 119. of the Revised Code, the ~~public health council~~ director may adopt rules further defining the scope of the term "health care provider."

(12) "Significant exposure to body fluids" means a percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another individual.

(13) "Emergency medical services worker" means all of the following:

(a) A peace officer;

(b) An employee of an emergency medical service organization as defined in section 4765.01 of the Revised Code;

(c) A firefighter employed by a political subdivision;

(d) A volunteer firefighter, emergency operator, or rescue operator;

(e) An employee of a private organization that renders rescue services, emergency medical services, or emergency medical transportation to accident victims and persons suffering serious illness or injury.

(14) "Peace officer" has the same meaning as in division (A) of section 109.71 of the Revised Code, except that it also includes a sheriff and the superintendent and troopers of the state highway patrol.

(B) Persons designated by rule adopted by the ~~public health council~~ director under section 3701.241 of the Revised Code shall report promptly every case of AIDS, every AIDS-related condition, and every confirmed positive HIV test to the department of health on forms and in a manner prescribed by the director. In each county the director shall designate the health commissioner of a health district in the county to receive the reports.

(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.

(D) Information reported under this section that identifies an individual is confidential and may be released only with the written consent of the individual except as the director determines necessary to ensure the accuracy of the information, as necessary to provide treatment to the individual, as ordered by a court pursuant to section 3701.243 or 3701.247 of the Revised Code, or pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, prosecuting attorney, city director of law or similar chief legal officer of a municipal corporation, or village solicitor, in connection with a criminal investigation or prosecution. Information that does not identify

an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.241. (A) The director of health shall develop and administer the following:

(1) A surveillance system to determine the number of cases of AIDS and the HIV infection rate in various population groups;

(2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines;

(3) A confidential partner notification system to alert and counsel sexual contacts of individuals with HIV infection;

(4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public;

(5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes and in alternative settings;

(6) Programs to expand regional outpatient treatment of individuals with AIDS or AIDS-related condition;

(7) A program to assist communities, including communities of less than one hundred thousand population, in establishing AIDS task forces and support groups for individuals with AIDS, AIDS-related condition, and HIV infection. The program may include the award of grants if they are matched by local funds.

Information obtained or maintained under the partner notification system is not a public record under section 149.43 of the Revised Code and may be released only in accordance with

division (C) of section 3701.243 of the Revised Code.

(B) The director shall:

(1) Approve a test or tests to be used to determine whether an individual has HIV infection, define a confirmed positive test result, and develop guidelines for interpreting test results;

(2) Establish sites for confidential and anonymous HIV tests, and prepare a list of sites where an individual may obtain an anonymous test;

(3) Prepare a list of counseling services;

(4) Make available a copy of the list of anonymous testing sites or a copy of the list of counseling services to anyone who requests it.

(C) The director of health shall require the director or administrator of each site where anonymous or confidential HIV tests are given to submit a report every three months evaluating from an epidemiologic perspective the effectiveness of the HIV testing program at that site. Not later than January 31, 1991, and each year thereafter, the director of health shall make a report evaluating the anonymous and confidential testing programs throughout the state with regard to their effectiveness as epidemiologic programs. The report shall be submitted to the speaker of the house of representatives and the president of the senate and shall be made available to the public.

The ~~public~~ director of health ~~council~~ shall adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of the requirements of division (B)(1) of this section and division (D) of section 3701.24 of the Revised Code.

(D) The director of health shall administer funds received under Title XXVI of the "Public Health Services Act," 104 Stat. 576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve

the quality and availability of care for individuals with AIDS, AIDS-related condition, and HIV infection. In administering these funds, the director may enter into contracts with any person or entity for the purpose of administering the programs, including contracts with the department of job and family services for establishment of a program of reimbursement of drugs used for treatment and care of such individuals. The director of health may adopt rules in accordance with Chapter 119. of the Revised Code and issue orders as necessary for administration of the funds. If the department of job and family services enters into a contract under this division, the director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for carrying out the department's duties under the contract.

Sec. 3701.242. (A) An HIV test may be performed by or on the order of a health care provider who, in the exercise of the provider's professional judgment, determines the test to be necessary for providing diagnosis and treatment to the individual to be tested, if the individual or the individual's parent or guardian has given consent to the provider for medical or other health care treatment. The health care provider shall inform the individual of the individual's right under division (D) of this section to an anonymous test.

(B) A minor may consent to be given an HIV test. The consent is not subject to disaffirmance because of minority. The parents or guardian of a minor giving consent under this division are not liable for payment and shall not be charged for an HIV test given to the minor without the consent of a parent or the guardian.

(C) The health care provider ordering an HIV test shall provide post-test counseling for an individual who receives an HIV-positive test result. The ~~public~~ director of health ~~council~~

may adopt rules~~, pursuant to recommendations from the director of health and~~ in accordance with Chapter 119. of the Revised Code~~,~~ specifying the information to be provided in post-test counseling.

(D) An individual shall have the right to an anonymous test. A health care facility or health care provider that does not provide anonymous testing shall refer an individual requesting an anonymous test to a site where it is available.

(E) Divisions (B) to (D) of this section do not apply to the performance of an HIV test in any of the following circumstances:

(1) When the test is performed in a medical emergency by a nurse or physician and the test results are medically necessary to avoid or minimize an immediate danger to the health or safety of the individual to be tested or another individual, except that post-test counseling shall be given to the individual if the individual receives an HIV-positive test result;

(2) When the test is performed for the purpose of research if the researcher does not know and cannot determine the identity of the individual tested;

(3) When the test is performed by a person who procures, processes, distributes, or uses a human body part from a deceased person donated for a purpose specified in Chapter 2108. of the Revised Code, if the test is medically necessary to ensure that the body part is acceptable for its intended purpose;

(4) When the test is performed on a person incarcerated in a correctional institution under the control of the department of rehabilitation and correction if the head of the institution has determined, based on good cause, that a test is necessary;

(5) When the test is performed in accordance with section 2907.27 of the Revised Code;

(6) When the test is performed on an individual after the

infection control committee of a health care facility, or other body of a health care facility performing a similar function determines that a health care provider, emergency medical services worker, or peace officer, while rendering health or emergency care to an individual, has sustained a significant exposure to the body fluids of that individual, and the individual has refused to give consent for testing.

Sec. 3701.248. (A) As used in this section:

(1) "Contagious or infectious disease" means a disease specified ~~by rule~~ in rules adopted by the ~~public~~ director of health ~~council~~ pursuant to division (F) of this section.

(2) "Patient" means either of the following:

(a) A person, whether alive or dead, who has been treated, or handled, or transported for medical care by an emergency medical services worker;

(b) A deceased person whose body is handled by a funeral services worker.

(3) "Significant exposure" means:

(a) A percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another person;

(b) Exposure to a contagious or infectious disease.

(4) "Funeral services worker" means a person licensed as a funeral director or embalmer under Chapter 4717. of the Revised Code or an individual responsible for the direct final disposition of a deceased person.

(B)(1) An emergency medical services worker or funeral services worker who believes that significant exposure has

occurred through the worker's contact with a patient may submit to the health care facility or coroner that received the patient a written request to be notified of the results of any test performed on the patient to determine the presence of a contagious or infectious disease. The request shall include:

(a) The name, address, and telephone number of the individual submitting the request;

(b) The name of the individual's employer, or, in the case of a volunteer emergency medical services worker, the entity for which the worker volunteers, and the individual's supervisor;

(c) The date, time, location, and manner of the exposure.

(2) The request for notification that is submitted by an emergency medical services worker pursuant to division (B)(1) of this section is valid for ten days after it is made. If at the end of that ten-day period no test has been performed to determine the presence of a contagious or infectious disease, no diagnosis has been made, or the result of the test is negative, the health care facility or coroner shall notify the emergency medical services worker. The notification shall not include the name of the patient. If necessary, the request may be renewed in accordance with the same procedures and requirements as the original request.

(3) A health care facility or coroner shall respond immediately to a request for notification submitted pursuant to division (B)(1) of this section by a funeral services worker. If no test has been performed to determine the presence of a contagious or infectious disease, no diagnosis has been made, or the result of a test that was performed is negative, the health care facility or coroner shall immediately notify the funeral services worker. The notification shall not include the name of the patient.

On receipt of notification that no test has been performed to

determine the presence of a contagious or infectious disease in a patient, the funeral services worker may have a test performed on the patient. The test shall be performed in accordance with rules adopted by the department of health pursuant to division (G) of this section.

The consent of the patient's family is not required for performance of a test pursuant to division (B)(3) of this section.

(C) The health care facility or coroner that receives a written request for notification shall give an oral notification of the presence of a contagious or infectious disease, or of a confirmed positive test result, if known, to the person who made the request and the person's supervisor and to the infection control committee or other body described in division (E)(6) of section 3701.242 of the Revised Code within two days after determining the presence of a contagious or infectious disease or after a confirmed positive test result. A written notification shall follow oral notification within three days. If a contagious or infectious disease is present, or the test results are confirmed positive, both the oral and written notification shall include the name of the disease, its signs and symptoms, the date of exposure, the incubation period, the mode of transmission of the disease, the medical precautions necessary to prevent transmission to other persons, and the appropriate prophylaxis, treatment, and counseling for the disease. The notification shall not include the name of the patient.

If the request is made by an emergency medical services worker and the information is not available from the health care facility to which the request is made because the patient has been transferred from that health care facility, the facility shall assist the emergency medical services worker in locating the patient and securing the requested information from the health care facility that treated or is treating the patient. If the

patient has died, the health care facility shall give the emergency medical services worker the name and address of the coroner who received the patient.

(D) Each health care facility and coroner shall develop written procedures to implement the notification procedures required by this section. A health care facility or coroner may take measures in addition to those required in this section to notify emergency medical services workers and funeral services workers of possible exposure to a contagious or infectious disease as long as the confidentiality of the information is maintained.

(E) No person shall knowingly fail to comply with division (C) of this section.

(F) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the diseases that are reasonably likely to be transmitted by air or blood during the normal course of duties performed by an emergency medical services worker or funeral services worker. In adopting such rules, the ~~council~~ director shall consider the types of contact that typically occur between patients and emergency medical services workers and funeral services workers.

(G) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the procedures a funeral services worker must follow when having a test performed on a patient pursuant to division (B)(3) of this section. The rules shall specify how and by whom the test is to be performed. The rules shall require the funeral services worker or the funeral services worker's employer to pay the cost of the test. No health care facility shall be required to perform the test.

Sec. 3701.33. (A) There is hereby created the Ohio public health advisory board. The board shall consist of the following members:

(1) The following members appointed by the director of health from among individuals who are not employed by the state and are recommended by statewide trade or professional organizations that represent interests in public health:

(a) One individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) One individual authorized under Chapter 4723. of the Revised Code to practice nursing as a registered nurse;

(c) Three members of the public, two of whom are representatives of entities licensed by the department of health or boards of health.

(2) One representative of the association of Ohio health commissioners, appointed by the association;

(3) One representative of the Ohio public health association, appointed by the association;

(4) One representative of the Ohio environmental health association, appointed by the association, who is registered as a sanitarian under Chapter 4736. of the Revised Code;

(5) One representative of the Ohio association of boards of health, appointed by the association;

(6) One representative of the Ohio society for public health education, appointed by the society;

(7) One representative of the Ohio hospital association, appointed by the association.

The director of health or the director's designee shall serve as an ex officio, nonvoting member of the board.

(B) Not later than thirty days after the effective date of this section, initial appointments shall be made to the board. Of the initial appointments, the members specified in divisions

(A)(5), (6), and (7) and division (A)(1)(c) of this section representing entities licensed by the department of health or boards of health shall serve terms ending June 30, 2014, and the members specified in divisions (A)(1)(a) and (b), divisions (A)(2), (3), and (4), and division (A)(1)(c) of this section not representing entities licensed by the department or boards of health shall serve terms ending June 30, 2015. Thereafter, terms of office for all members shall be three years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed, except that no member who has served two consecutive terms may be reappointed until three years have elapsed since the member's last term ended.

Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner as original appointments.

Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of ninety days has elapsed, whichever occurs first.

(C) The board shall annually select from among its members a chairperson and vice-chairperson. The director shall designate an officer or employee of the department to act as the board's secretary. The secretary shall be a nonvoting board member.

The board may adopt by laws governing its operation. The chairperson may appoint subcommittees as the chairperson considers necessary.

(D) The board shall meet at the call of the chairperson, but not less than four times per year. A majority of the members of the board constitutes a quorum. Special meetings may be called by the chairperson and shall be called by the chairperson at the request of the director. In a request for a special meeting, the director shall specify the purpose of the meeting and the date and place the meeting is to be held. No other business shall be considered at a special meeting except by a unanimous vote of members present at the meeting.

In conducting any meeting, the board and its subcommittees may use an interactive video teleconferencing system. If provisions are made that allow public attendance at a designated location with respect to a meeting using such a system, the board members who attend the meeting by video teleconference shall be counted for purposes of determining whether a quorum is present and shall be permitted to vote.

Members shall be expected to attend a majority of meetings of the board. Unexcused absence from three consecutive meetings shall be considered notice of a member's intent to resign from the board.

(E)(1) The department shall provide meeting space and staff and other administrative support for the board to carry out its duties.

(2) To facilitate the board's review of proposed rules under division (A)(1) of section 3701.34 of the Revised Code, the department shall establish and maintain an electronic web-based database of board meeting agendas, board meeting minutes, proposed rules, public comments, and other documents relevant to the work of the board.

(F) Notice of meetings shall be provided to members through the board's mailing list, the department's web site, or any other

means available to the board.

The minutes of previous meetings, the next meeting's agenda, and information on any matters to be presented to the board at any regular or special meeting shall be provided to the board in an electronic format.

(G) Members shall attend annual ethics training provided by the Ohio ethics commission.

(H) Members shall serve without compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(I) Sections 101.82 to 101.87 of the Revised Code do not apply to the Ohio public health advisory board.

Sec. 3701.34. (A) The Ohio public health advisory board shall review and make recommendations to the director of health on all of the following:

(1) Developing and adopting proposed rules under Chapters 3701 and 3717 of the Administrative Code;

(2) Prescribing proposed fees for services provided by the office of vital statistics and the bureau of environmental health;

(3) Issues to improve public health and increase awareness of public health issues at the state level, local level, or both;

(4) Any other public health issues that the director requests the board to consider.

(B) In making recommendations to the director under division (A)(1) of this section, all of the following apply:

(1) Prior to filing a proposed rule with the joint committee on agency rule review, the department of health shall provide each board member with a copy of the proposed rule, copies of public comments received by the department during the public comment

period, and written evidence of stakeholder involvement.

(2) Prior to board meetings, copies of proposed rules shall be provided to members. On request of a member, the department shall ensure that appropriate department employees attend board meetings to answer questions concerning proposed rules.

(3)(a) Not later than sixty days after receiving a copy of a proposed rule, the board shall recommend approval or disapproval of the rule and submit its recommendation by board action to the director. In making its recommendation, the board may consider public comments provided to the department or the board.

(b) If the board fails to make a recommendation within sixty days of receiving a copy of the proposed rule, the director may file the proposed rule.

(4) Except as provided in division (B)(3)(b) of this section, the director shall consider the board's recommendation before filing a proposed rule. On request of the board, the director shall meet with the board to discuss the board's recommendation.

(5) If the director disagrees with the board's recommendation, the director shall inform the board in writing of the director's decision and the reason for the decision prior to the next quarterly meeting. The director or the director's designee may meet with the board at the next quarterly meeting to answer questions regarding why the director disagreed with the board's recommendation.

(C) To the extent the board believes that a proposed rule does not comply with requirements established by the joint committee on agency rule review or the common sense initiative office, nothing in this section prohibits the board, in carrying out its duties under division (A)(1) of this section, from contacting the joint committee on agency rule review or the common sense initiative office.

(D) In making recommendations under division (A)(2) of this section for prescribing proposed fees for services provided by the bureau of environmental health, the board and the department shall develop a cost methodology subject to approval by the director.

(E) This section does not apply to the following:

(1) A proposed rule that is to be refiled with the joint committee on agency rule review solely because of technical or other nonsubstantive revisions;

(2) The emergency adoption, amendment, or rescission of a rule under division (F) of section 119.03 of the Revised Code.

Sec. 3701.341. (A) The ~~public~~ director of health ~~council~~, pursuant to Chapter 119. and consistent with section 2317.56 of the Revised Code, shall adopt rules relating to abortions and the following subjects:

(1) Post-abortion procedures to protect the health of the pregnant woman;

(2) Pathological reports;

(3) Humane disposition of the product of human conception;

(4) Counseling.

(B) The director of health shall implement the rules and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of the rules. This action is an additional remedy not dependent on the adequacy of the remedy at law.

Sec. 3701.342. After consultation with the public health standards task force established under section 3701.343 of the Revised Code, the ~~public~~ director of health ~~council~~ shall adopt rules establishing minimum standards and optimum achievable standards for boards of health and local health departments. The

minimum standards shall assure that boards of health and local health departments provide for:

(A) Analysis and prevention of communicable disease;

(B) Analysis of the causes of, and appropriate treatment for, the leading causes of morbidity and mortality;

(C) The administration and management of the local health department;

(D) Access to primary health care by medically underserved individuals;

(E) Environmental health management programs;

(F) Health promotion services designed to encourage individual and community wellness.

The ~~public health council~~ director shall adopt rules establishing a formula for distribution of state health district subsidy funds to boards of health and local health departments. The formula shall provide no subsidy funds to a board or department unless it meets minimum standards and shall provide higher funding levels for boards and districts that meet optimum achievable standards.

Notwithstanding section 119.03 of the Revised Code, rules adopted under this section shall not take effect unless approved by concurrent resolution of the general assembly.

Sec. 3701.343. The ~~chairman~~ director of ~~the public~~ health ~~council~~ shall, with the advice of the association of Ohio health commissioners ~~and the director of health~~, appoint a public health standards task force to assist and advise the ~~public health council~~ director in formulating and evaluating the standards established under section 3701.342 of the Revised Code for the provision of public health services. ~~The task force shall recommend its standards for all categories mentioned in section~~

~~3701.342 of the Revised Code on or before March 1, 1983.~~

The task force shall have nine members, consisting of:

(A) A sanitarian registered in accordance with Chapter 4736. of the Revised Code;

(B) A registered nurse licensed in accordance with Chapter 4723. of the Revised Code;

(C) A physician ~~licensed in accordance with~~ who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(D) Three health commissioners;

(E) Two representatives of the department of health;

(F) One individual with recognized ability in public health law, public health laboratories, epidemiology, nutrition, or health education.

~~The public health standards task force shall complete its work within three years after the effective date of this section and shall cease to exist upon completion of its work, provided, that the public health council may reconstitute the public health standards task force, for the purpose of reviewing, evaluating, and revising the standards mandated in section 3701.342 of the Revised Code.~~

Members of the task force shall elect a ~~chairman~~ chairperson. Five members of the task force constitute a quorum and six votes are necessary to validate an action.

~~Within ninety days of the effective date of this section, the chairman of the public health council shall make the appointments to the task force. Within sixty days of their appointment, the task force members shall meet, organize, and begin their work.~~ Vacancies occurring on the task force shall be filled in the same manner as the initial appointments.

Members of the task force shall serve without compensation, but may be reimbursed for necessary expenses.

Sec. 3701.344. As used in this section and sections 3701.345, 3701.346, and 3701.347 of the Revised Code:

(A) "Private water system" means any water system for the provision of water for human consumption, if such system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days out of the year. A private water system includes any well, spring, cistern, pond, or hauled water and any equipment for the collection, transportation, filtration, disinfection, treatment, or storage of such water extending from and including the source of the water to the point of discharge from any pressure tank or other storage vessel; to the point of discharge from the water pump where no pressure tank or other storage vessel is present; or, in the case of multiple service connections serving more than one dwelling, to the point of discharge from each service connection. "Private water system" does not include the water service line extending from the point of discharge to a structure.

(B) Notwithstanding section 3701.347 of the Revised Code and subject to division (C) of this section, rules adopted by the ~~public~~ director of health ~~council~~ regarding private water systems shall provide for the following:

(1) Except as otherwise provided in this division, boards of health of city or general health districts shall be given the exclusive power to establish fees in accordance with section 3709.09 of the Revised Code for administering and enforcing such rules. Such fees shall establish a different rate for administering and enforcing the rules relative to private water systems serving single-family dwelling houses and nonsingle-family dwelling houses. Except for an amount established by the ~~public~~

~~health council~~ director, pursuant to division (B)(5) of this section, for each new private water system installation, no portion of any fee for administering and enforcing such rules shall be returned to the department of health. If the director of health determines that a board of health of a city or general health district is unable to administer and enforce a private water system program in the district, the director shall administer and enforce such a program in the district and establish fees for such administration and enforcement.

(2) Boards of health of city or general health districts shall be given the exclusive power to determine the number of inspections necessary for determining the safe drinking characteristics of a private water system.

(3) Private water systems contractors, as a condition of doing business in this state, shall annually register with, and comply with surety bonding requirements of, the department of health. No such contractor shall be permitted to register if the contractor fails to comply with all applicable rules adopted by the ~~public health council~~ director and the board of health of the city or general health district. The annual registration fee for private water systems contractors shall be sixty-five dollars. The ~~public health council~~ director, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the annual registration fee. ~~Before January 1, 1993, the fee shall not be increased by more than fifty per cent of the amount prescribed by this section.~~

(4) ~~Boards~~ Subject to rules adopted by the director, boards of health of city or general health districts ~~subject to such rules of the public health council~~ shall have the option of determining whether bacteriological examinations shall be performed at approved laboratories of the state or at approved private laboratories.

(5) The ~~public health council~~ director may establish fees for each new private water system installation, which shall be collected by the appropriate board of health and transmitted to the director ~~of health~~ pursuant to section 3709.092 of the Revised Code.

(6) All fees received by the director of health under divisions (B)(1), (3), and (5) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the administration and enforcement of sections 3701.344 to 3701.347 of the Revised Code and the rules pertaining to private water systems adopted under those sections ~~or section 3701.34 of the Revised Code~~.

(C) To the extent that rules adopted under division (B) of this section require health districts to follow specific procedures or use prescribed forms, no such procedure or form shall be implemented until it is approved by majority vote of an approval board of health commissioners, hereby created. Members of the board shall be the officers of the association of Ohio health commissioners, or any successor organization, and membership on the board shall be coterminous with holding an office of the association. No health district is required to follow a procedure or use a form required by a rule adopted under division (B) of this section without the approval of the board.

(D) A board of health shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 3701.345. Any applicant for a permit to construct, develop, install, or modify a private water system required by

rules adopted by the ~~public~~ director of health ~~council~~ under ~~sections 3701.34 and~~ section 3701.347 of the Revised Code may apply to the board of health of the city or general health district administering and enforcing the private water supply program in the health district in which the private water system is or is to be located or, if the health district is not administering and enforcing the program, may apply to the department of health for a variance from such rules governing the design, construction, development, installation, or modification of private water systems. The application for a variance shall be made in writing and shall include a statement of the particular rule or rules from which a variance is sought, a description of the proposed system or modification, and the necessity for the variance. The board of health or the department of health shall not grant a variance unless the applicant demonstrates that:

(A) There will be an unusual and unnecessary hardship in complying with the rules from which the variance is sought;

(B) Contamination of the private water system will not occur as a result of construction and operation of the system as proposed by the variance application;

(C) The health of persons using water from the private water system will not be endangered as a result of construction and operation of the system as proposed by the variance application; and

(D) No other technically feasible and economically reasonable means exist for obtaining water from the proposed type of water source.

Sec. 3701.347. Notwithstanding division (E) of section 6111.42 of the Revised Code, rules adopted under such division and in effect on December 14, 1978, shall continue in effect until repealed by the environmental protection agency or superseded by

rules ~~of~~ adopted by the ~~public~~ director of health ~~council~~ as hereinafter provided, as fully as if such section had not been amended by Amended Substitute Senate Bill No. 445 of the 112th general assembly on such date. Insofar as these rules affect wells for the provision of water for human consumption not used or for use by a public water system, they shall remain in effect notwithstanding repeal by the environmental protection agency until the ~~public health council~~ director adopts rules superseding them which prescribe uniform standards and procedures for the design, construction, inspection, installation, development, maintenance, and abandonment of private water systems, to protect the health of the persons served by such water systems and to establish fees at a level calculated to pay the cost of administering and enforcing such rules by the director ~~health~~ or by boards of health of city and general health districts approved by the director of health. For purposes of this section "public water system" has the meaning ascribed to it in section 6109.01 of the Revised Code.

Sec. 3701.352. No person shall violate any rule the ~~public health council,~~ director of health~~,~~ or department of health adopts or any order the director or department of health issues under this chapter to prevent a threat to the public caused by a pandemic, epidemic, or bioterrorism event.

Sec. 3701.40. The ~~public~~ director of health ~~council~~ shall by rule prescribe minimum standards for the maintenance and operation of hospitals and medical facilities which shall receive federal aid for construction under the state plan provided for by section 3701.39 of the Revised Code.

Boards of trustees or directors of institutions required to comply with sections 3701.01, 3701.04, 3701.08, 3701.09, and 3701.37 to 3701.45 of the Revised Code shall have the right to

select the professional staff members of such institutions and to select and employ interns, nurses, and other personnel, and no rules, regulations, or standards of the director of health ~~or the public health council~~ adopted or promulgated severally or jointly shall be valid which, if enforced, would interfere in such selection or employment.

The director of health may petition the common pleas court of the county in which any hospital or medical facility is located for an order enjoining any person, firm, partnership, association, corporation, or other entity, private or public, from operating a hospital or medical facility in violation of any rules adopted under this section. Irrespective of any other remedy the director may have in law or equity the court has jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating in violation of such rules.

Sec. 3701.503. As used in sections 3701.504 to 3701.509 of the Revised Code:

(A) "Parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian.

(B) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(C) "Custodian" means, except as used in division (A) of this section, a government agency or an individual, other than the parent or guardian, with legal or permanent custody of a child as defined in section 2151.011 of the Revised Code.

(D) "Hearing screening" means the identification of newborns and infants who may have a hearing impairment, through the use of a physiologic test.

(E) "Hearing evaluation" means evaluation through the use of audiological procedures by an audiologist or physician.

(F) "Hearing impairment" means a loss of hearing in one or both ears in the frequency region important for speech recognition and comprehension.

(G) "Newborn" means a child who is less than thirty days old.

(H) "Infant" means a child who is at least thirty days but less than twenty-four months old.

(I) "Freestanding birthing center" has the same meaning as in section ~~3702.51~~ 3702.141 of the Revised Code.

(J) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(K) "Audiologist" means an individual authorized under section 4753.07 of the Revised Code to practice audiology.

(L) "Hospital" means a hospital that has a maternity unit or newborn nursery.

(M) "Maternity unit" means any unit or place in a hospital where women are regularly received and provided care during all or part of the maternity cycle, except that "maternity unit" does not include an emergency department or similar place dedicated to providing emergency health care.

(N) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

Sec. 3701.507. (A) To assist in implementing sections 3701.503 to 3701.509 of the Revised Code, the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code shall appoint a permanent infant

hearing screening subcommittee. The subcommittee shall consist of the following members:

(1) One otolaryngologist;

(2) One neonatologist;

(3) One pediatrician;

(4) One neurologist;

(5) One hospital administrator;

(6) Two or more audiologists who are experienced in infant hearing screening and evaluation;

(7) One speech-language pathologist licensed under section 4753.07 of the Revised Code;

(8) Two persons who are each a parent of a hearing-impaired child;

(9) One geneticist;

(10) One epidemiologist;

(11) One adult who is deaf or hearing impaired;

(12) One representative from an organization for the deaf or hearing impaired;

(13) One family advocate;

(14) One nurse from a well-baby neonatal nursery;

(15) One nurse from a special care neonatal nursery;

(16) One teacher of the deaf who works with infants and toddlers;

(17) One representative of the health insurance industry;

(18) One representative of the bureau for children with medical handicaps;

(19) One representative of the department of education;

(20) One representative of the Ohio department of job and family services who has responsibilities regarding medicaid;

(21) Any other person the advisory council appoints.

(B) The infant hearing subcommittee shall:

(1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code;

(2) Advise and make recommendations regarding proposed rules prior to their adoption by the ~~public health council~~ director under section 3701.508 of the Revised Code;

(3) Consult with the director of health and advise and make recommendations regarding program development and implementation under sections 3701.503 to 3701.509 of the Revised Code, including all of the following:

(a) Establishment under section 3701.504 of the Revised Code of the statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment;

(b) Identification of locations where hearing evaluations may be conducted;

(c) Recommendations for methods and techniques of hearing screening and hearing evaluation;

(d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care;

(e) Maintenance of a register of newborns and infants who do not pass the hearing screening;

(f) Preparation of the information required by section 3701.506 of the Revised Code ~~and any other information the public health council requires the department of health to provide~~.

Sec. 3701.508. (A) The ~~public~~ director of health ~~council~~ shall adopt rules governing the statewide hearing screening, tracking, and early intervention program established under section 3701.504 of the Revised Code, including rules that do all of the following:

(1) Specify how hospitals and freestanding birthing centers are to comply with the requirements of section 3701.505 of the Revised Code, including methods to be used for hearing screening, except that with regard to the physiologic equipment to be used for hearing screening, the rules may require only that the equipment be capable of giving reliable results and may not specify particular equipment or a particular type of equipment;

(2) Provide that no newborn or infant shall be required to undergo a hearing screening if the parent, guardian, or custodian of the newborn or infant objects on the grounds that the screening conflicts with the parent's, guardian's, or custodian's religious tenets and practices;

(3) Provide for situations in which the parent, guardian, or custodian of a newborn or infant objects to a hearing screening for reasons other than religious tenets and practices;

(4) Specify how the department of health will determine whether a person is financially unable to pay for a hearing screening and define "third-party payer" for the purpose of reimbursement of hearing screening by the department under section 3701.505 of the Revised Code;

(5) Specify an inexpensive and efficient format and procedures for the submission of hearing screening information from hospitals and freestanding birthing centers to the department of health;

(6) Specify a procedure whereby the department may conduct

timely reviews of hearing screening information submissions for purposes of quality assurance, training, and disease prevention and control;

(7) Specify any additional information that hospitals and freestanding birthing centers are to provide to the medically handicapped children's medical advisory council's infant hearing screening subcommittee under section 3701.509 of the Revised Code.

(B) In addition to the rules adopted under division (A) of this section, the ~~council~~ director shall adopt rules that specify the training that must be completed by persons who will conduct hearing screenings. In adopting these rules, the ~~council~~ director shall consider incorporating cost-saving training methods, including computer-assisted learning and on-site training. Neither the rules nor the director of health may establish a minimum educational level for persons conducting hearing screenings.

(C) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code and shall be adopted so as to take effect not later than six months after ~~the effective date of this section~~ August 1, 2002.

Sec. 3701.509. (A) The department of health shall develop a mechanism to analyze and interpret the hearing screening information to be reported under division (B) of this section. The department shall notify all hospitals and freestanding birthing centers subject to the reporting requirements of the date the department anticipates that the mechanism will be complete. After the mechanism is complete, the department shall notify each hospital and freestanding birthing center subject to the reporting requirement of the date by which the hospital or center must submit its first report.

(B) Subject to division (A) of this section and in accordance with rules adopted by the ~~public~~ director of health ~~council~~ under

section 3701.508 of the Revised Code, each hospital and freestanding birthing center that has conducted a hearing screening required by section 3701.505 of the Revised Code shall provide to the department of health for use by the medically handicapped children's medical advisory council's infant hearing screening subcommittee information specifying all of the following:

(1) The number of newborns born in the hospital or freestanding birthing center and the number of newborns and infants not screened because they were transferred to another hospital;

(2) The number of newborns and infants referred to the hospital or freestanding birthing center for a hearing screening and the number of those newborns and infants who received a hearing screening;

(3) The number of newborns and infants who did not pass the hearing screenings conducted by the hospital or freestanding birthing center;

(4) Any other information concerning the program established under section 3701.504 of the Revised Code.

(C) The department of health shall conduct a timely review of the information submitted by hospitals and freestanding birthing centers in accordance with rules adopted by the ~~public health council~~ director under section 3701.508 of the Revised Code.

(D) The infant hearing screening subcommittee, with the support of the department of health, shall compile and summarize the information submitted to the department by hospitals and freestanding birthing centers under division (B) of this section. Beginning with the first year after the mechanism developed under division (A) of this section is complete, the subcommittee shall annually prepare and transmit a report to the director of health,

the speaker of the house of representatives, and the president of the senate. The council shall make the report available to the public.

(E) The department and all members of the subcommittee shall maintain the confidentiality of patient-identifying information submitted under division (B) of this section and section 3701.505 of the Revised Code. The information is not a public record under section 149.43 of the Revised Code, except to the extent that the information is used in preparing reports under this section.

Nothing in this division prohibits the department from providing patient-identifying information to other entities as it considers necessary to implement the statewide tracking and early intervention components of the program established under section 3701.504 of the Revised Code. Any entity that receives patient-identifying information from the department shall maintain the confidentiality of the information.

Sec. 3701.57. All prosecutions and proceedings by the department of health for the violation of sections 3701.01 to 3701.56, 3705.01 to 3705.29, 3707.06, 3709.01 to 3709.04, 3709.07 to 3709.11, 3709.13, 3709.17, 3709.18, and 3709.21 to 3709.36 of the Revised Code, or for the violation of any of the orders or rules of the department, shall be instituted by the director of health. Except as provided in division (C) of section 3701.571 of the Revised Code, all fines or judgments the department collects shall be paid into the state treasury to the credit of the general revenue fund.

The director of health, the board of health of a general or city health district, or any person charged with enforcing the rules of the department of health as provided in section 3701.56 of the Revised Code may petition the court of common pleas for injunctive or other appropriate relief requiring any person

violating a rule adopted by ~~the public health council under section 3701.34 of the Revised Code~~ or any order issued by the director of health under this chapter to comply with such rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant such injunctive or other appropriate relief as the equities of the case require.

Sec. 3701.63. (A) As used in this section and section 3701.64 of the Revised Code:

(1) "Child day-care center," "type A family day-care home," and "certified type B family day-care home" have the same meanings as in section 5104.01 of the Revised Code.

(2) "Child care facility" means a child day-care center, a type A family day-care home, or a certified type B family day-care home.

(3) "Freestanding birthing center" has the same meaning as in section ~~3702.51~~ 3702.141 of the Revised Code.

(4) "Hospital" means a hospital classified pursuant to rules adopted under section 3701.07 of the Revised Code as a general hospital or children's hospital.

(5) "Maternity unit" means any unit or place in a hospital where women are regularly received and provided care during all or part of the maternity cycle, except that "maternity unit" does not include an emergency department or similar place dedicated to providing emergency health care.

(6) "Parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. "Parent" also means a prospective adoptive parent with whom a child is placed.

(7) "Shaken Baby Syndrome" means signs and symptoms,

including, but not limited to, retinal hemorrhages in one or both eyes, subdural hematoma, or brain swelling, resulting from the violent shaking or the shaking and impacting of the head of an infant or small child.

(B) The director of health shall establish the shaken baby syndrome education program by doing all of the following:

(1) By not later than one year after February 29, 2008, developing educational materials that present readily comprehendible information on shaken baby syndrome;

(2) Making available on the department of health web site in an easily accessible format the educational materials developed under division (B)(1) of this section;

(3) Beginning in 2009, annually assessing the effectiveness of the shaken baby syndrome education program by evaluating the reports received pursuant to section 5101.135 of the Revised Code.

(C) In meeting the requirements under division (B) of this section, the director shall not develop educational materials that will impose an administrative or financial burden on any of the entities or persons listed in section 3701.64 of the Revised Code.

Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:

(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or

group practice.

(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(4) "Health care practitioner" means all of the following:

(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(c) An optometrist licensed under Chapter 4725. of the Revised Code;

(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;

(e) A pharmacist licensed under Chapter 4729. of the Revised Code;

(f) A physician;

(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;

(i) A psychologist licensed under Chapter 4732. of the Revised Code;

(j) A chiropractor;

(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;

(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;

(p) A dietitian licensed under Chapter 4759. of the Revised Code;

(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.

(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; ~~an adult care~~ a residential facility~~, as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section

5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.

(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.

(10) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.

(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division.

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.

(B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician or chiropractor designated by the patient. The health care provider shall take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record.

(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Sec. 3701.77. (A) The department of health may establish, promote, and maintain a lupus education and awareness program with an emphasis on at-risk communities to raise public awareness, educate consumers, and educate and train health professionals, human services providers, and other audiences.

(B) The department, in creating and implementing the program, may do all of the following:

(1) Provide sufficient staff and appropriate training to implement the program;

(2) Establish a grant program to support nonprofit voluntary health organizations with expertise in lupus to increase public awareness and enhance health professional education and understanding of the symptoms and consequences of lupus and the populations most at risk;

(3) Establish an intergovernmental council and advisory panel to oversee the implementation of the program;

(4) Identify the appropriate entities to carry out the

program;

(5) Base the program on the most current scientific information and findings;

(6) Work with government entities, community and business leaders, community organizations, health and human services providers, and national, state, and local lupus organizations, such as the lupus foundation of America, inc., to coordinate efforts to maximize state resources in the areas of lupus education and awareness;

(7) Identify and use other successful lupus education and awareness programs and procure related materials and services from organizations with appropriate expertise and knowledge of lupus.

(C) The department may accept gifts, grants, and donations from the federal government, foundations, organizations, medical schools, and other entities for fulfilling the obligations of the program.

(D) The department may seek any federal waiver that may be necessary to maximize funds from the federal government to implement the program.

Sec. 3701.771. (A)(1) The department of health may conduct a needs assessment to identify all of the following:

(a) The level of statewide health professional and public awareness about lupus;

(b) The existence of lupus education, awareness, and treatment programs and related technical assistance available in the state and nationwide;

(c) The lupus-related educational and support service needs of health care providers in the state, including physicians, nurses, health plans, and other health professionals and health care entities;

(d) The needs of people with lupus, their families, and caregivers, including health care providers, physicians, nurses, health plans, and other health professionals and health care entities;

(e) The services available to individuals with lupus, including the existence and availability of lupus treatment and specialty care, lupus support groups, and other related care and management services.

(2) Based on the needs assessment, the department may develop and maintain a directory of lupus-related services and health care providers with specialization in services to diagnose and treat lupus. The department may disseminate the directory to all stakeholders, including individuals with lupus, families, representatives from voluntary organizations, health professionals, health plans, and state and local health agencies.

(B) The department may undertake activities to raise public awareness about the symptoms of lupus, personal risk factors, and options for diagnosing and treating the disease with a particular focus on populations at elevated risk for lupus. Such activities may include, but are not limited to, the following:

(1) Implementing a statewide campaign to educate the general public about lupus by utilizing print, radio, and television public service announcements, advertisements, posters, and other materials;

(2) Disseminating health information and conducting individual risk assessments at public events, such as health fairs and community forums sponsored by the department;

(3) Distributing information through local health departments; schools; area agencies on aging; employer wellness programs; physicians and other health professionals; hospitals and health plans; health, nonprofit, and community-based

organizations; and regional offices of the department.

Sec. 3701.772. (A) The department of health may establish a program to award grants to educate and train physicians, health professionals, and other service providers on the most current, accurate scientific and medical information on lupus diagnosis, treatment, and therapeutic decision-making, including medical best practices for detecting and treating the disease in special populations, risks and benefits of medications, and research advances. If a program to award grants is established, the department shall allocate the total amount available for the grants in amounts that are proportionate to the populations of the areas served by the Ohio chapters of the lupus foundation of America, inc.

To be eligible for a grant, an applicant must be affiliated with the foundation.

(B) Each grant recipient shall do all of the following:

(1) Develop health professional educational materials that identify the latest scientific and medical information and clinical applications;

(2) Work to increase knowledge among physicians, nurses, and other health and human services professionals about the importance of lupus diagnosis, treatment, and rehabilitation;

(3) Use available curricula for training of health and human services providers and community leaders on lupus detection and treatment;

(4) Support continuing medical education programs in all geographical areas of the state presented by the leading state academic institutions by providing the most current information;

(5) Provide workshops and seminars for in-depth professional development in the field of care and management of lupus patients

to bring the latest information on clinical advances to health care providers;

(6) Conduct statewide conferences on lupus at appropriate intervals;

(7) Prepare an annual report that describes the recipient's use of the grant and submit a copy of the report to the department.

Sec. 3701.773. (A) If the department of health establishes the intergovernmental council as permitted by division (B)(3) of section 3701.77 of the Revised Code, the department shall seek to ensure coordination of lupus education and awareness efforts. The director of health shall serve as the council's chairperson. The council shall include representatives from appropriate state departments and agencies, including entities with responsibility for health disparities, medicaid, public health programs, education, and public welfare.

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

(1) Provide oversight to the lupus education and awareness program, as well as other lupus programs conducted by the department;

(2) Develop and issue grant applications and policies and procedures for programs aimed at health professionals and the public;

(3) Establish a mechanism for sharing information on lupus among all officials and employees involved in carrying out lupus-related programs;

(4) Assist the department and other offices in developing and coordinating plans for education and health promotion on lupus and ensure that issues related to lupus are integrated into other statewide plans;

(5) Prepare an annual report that describes educational initiatives on lupus sponsored by the state and make recommendations for new educational initiatives on lupus. The report shall be transmitted to the general assembly and be made available to the public.

Sec. 3701.774. (A) If the department of health establishes the advisory panel as permitted by division (B)(3) of section 3701.77 of the Revised Code, the department shall coordinate the panel to provide input and counsel regarding the lupus education and awareness program.

(B) If the panel is established, all of the following apply:

(1) Individuals and organizations may submit to the department nominations for appointments to the panel. Each panel member shall have familiarity with lupus and issues that surround lupus.

(2) The panel shall be comprised of the following members to be appointed by the director of health:

(a) At least three individuals with lupus;

(b) Not more than two representatives from the department;

(c) At least five individuals from lupus nonprofit health organizations, with preference given to individuals from the lupus foundation of America, inc.;

(d) At least five scientists or clinicians with experience in lupus who participate in various fields of scientific endeavor, including the fields of biomedical research, social, translational, behavioral and epidemiological research, and public health.

(3) The department shall select from among the panel members one member to serve as chairperson of the panel.

Members of the panel shall serve terms of two years each. Members may be named to serve a total of two terms and terms may be consecutive.

A majority of the members of the panel constitutes a quorum. A majority vote of a quorum is required for any official action of the panel.

The panel shall meet at the call of the panel chairperson, but not fewer than four times per year.

All members shall serve without compensation, but may be reimbursed for actual, necessary expenses incurred in the performance of their duties.

(4) The panel shall be responsible for advising the department and the intergovernmental council with respect to the implementation of the lupus education and awareness program. The department shall consult with the advisory panel on a regular basis.

Sec. 3701.775. There is hereby created in the state treasury the lupus education and awareness program fund. If the department of health establishes the lupus education and awareness program, as authorized under section 3701.77 of the Revised Code, all moneys accepted under division (C) of that section shall be credited to the fund. Money in the fund shall be used solely to administer the lupus education and awareness program.

Sec. 3701.87. The governor may authorize the department of health to enter into an agreement on behalf of the state with the United States secretary of health~~, education,~~ and ~~welfare~~ human services whereby the department may serve as the agency for review of proposed capital expenditures by health care facilities pursuant to section 1122 of the "Social Security Act" as amended by Public Law 92-603, 42 U.S.C. 1320a-1, and the regulations

adopted thereunder. Such agreement shall be subject to and include the following terms and conditions:

(A) All applications, notices, requests for information, and other official communications shall be on written forms prescribed by and approved by the director of health ~~and approved by the public health council~~.

(B) The ~~council~~ director, subject to Chapter 119. of the Revised Code, shall propose, modify, amend, and adopt rules, standards, guidelines, and official policies which are consistent with federal law, as it deems necessary to implement the capital expenditures review program.

(C) The director shall make all findings and recommendations required by federal law and shall give due consideration to the findings, reviews, and comments of areawide health planning agencies performing reviews pursuant to section 314 (b)(2) of the "Public Health Service Act," 42 U.S.C. 246, or the appropriate health systems agency.

(D) The findings and recommendations of the director shall be in writing and shall clearly specify the provisions of the state health facilities plan with which any application is found to be inconsistent. Any applicant adversely affected by the findings and recommendations of the director may request a hearing before the ~~council~~ director pursuant to Chapter 119. of the Revised Code. The findings and recommendations of the ~~council~~ director are an adjudication as defined in Chapter 119. of the Revised Code and may be appealed as provided in that chapter.

Sec. 3701.881. (A) As used in this section:

(1) "Applicant" means ~~both of the following:~~

~~(a) A~~ a person who is under final consideration for ~~appointment to or~~ employment with a home health agency in a

~~position as a person responsible for the care, custody, or control of a child;~~

~~(b) A person who is under final consideration for employment with a home health agency in a~~ full-time, part-time, or temporary position that involves providing direct care to an ~~older adult~~ individual or is referred to a home health agency by an employment service for such a position. ~~With regard to persons providing direct care to older adults, "applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.~~

(2) "Criminal records check" ~~and "older adult" have~~ has the same ~~meanings~~ meaning as in section 109.572 of the Revised Code.

(3) "Direct care" means any of the following:

(a) Any service identified in divisions (A)(6)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home;

(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;

(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.

(4) "Disqualifying offense" means any of the following:

(a) One or more violations of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21,

2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.12, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) One or more violations of felonious sexual penetration under former section 2907.12 of the Revised Code;

(c) One or more violations of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(d) One violation of section 2925.11 of the Revised Code when the violation is not a minor drug possession offense;

(e) Two or more violations of section 2925.11 of the Revised Code, regardless of whether any of the violations are a minor drug possession offense;

(f) One or more violations of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(3)(a) to (e) of this section;

(g) One or more violations of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A)(3)(a) to (f) of this section.

(5) "Employee" means a person employed by a home health

agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.

(6) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, or hospice care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:

(a) Skilled nursing care;

(b) Physical therapy;

(c) Speech-language pathology;

(d) Occupational therapy;

(e) Medical social services;

(f) Home health aide services.

~~(4)~~(7) "Home health aide services" means any of the following services provided by an ~~individual employed with or contracted for by~~ employee of a home health agency:

(a) Hands-on bathing or assistance with a tub bath or shower;

(b) Assistance with dressing, ambulation, and toileting;

(c) Catheter care but not insertion;

(d) Meal preparation and feeding.

~~(5)~~(8) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.

~~(6)~~(9) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.

~~(7)~~(10) "Minor drug possession offense" has the same meaning

as in section 2925.01 of the Revised Code.

~~(8)~~(11) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.

~~(9)~~(12) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.

~~(10)~~(13) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.

~~(11)~~(14) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.

~~(12)~~(15) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.

(B) No home health agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this

section and the rules prohibit the home health agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing direct care to an individual.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) Except as provided by division (F) of this section, the chief administrator of a home health agency shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the home health agency by an employment service for a position that involves providing direct care to an individual:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the home health agency is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a home health agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to conduct a database review of an applicant or employee if division (F) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) ~~Except as provided in division (I) of this section~~ As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check ~~with respect to each~~ of the applicant. ~~If the position may involve both responsibility for the care, custody, or control of a child and provision of direct care to an older adult, the chief administrator shall request that the superintendent conduct a single criminal records check for the applicant.~~ If rules adopted under this section so require, the chief administrator of a home health agency shall request the superintendent to conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to request the criminal records check of the applicant or the employee if division (F) of this section applies or the home health agency is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing direct care to an individual. If an applicant or employee for whom a criminal records check request is required ~~under~~ by this ~~division~~ section does not present proof of having been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records

check ~~for the applicant~~. Even if an applicant or employee for whom a criminal records check request is required ~~under~~ by this ~~division~~ section presents proof that the applicant or employee has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) ~~Any person required by division (B)(1) of this section to request a criminal records check~~ The chief administrator shall ~~provide~~ do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required ~~under that division~~ by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section ~~109.572 of the Revised Code, obtain~~;

(b) Obtain the completed form and standard impression sheet from each applicant~~,~~ and ~~forward~~ employee;

(c) Forward the completed form and standard impression sheet to the superintendent ~~of the bureau of criminal identification and investigation~~ at the time the chief administrator requests ~~a~~ the criminal records check ~~pursuant to division (B)(1) of this section~~.

(3) ~~An applicant who receives pursuant to division (B)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheets with the impressions of the~~

~~applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide fingerprint impressions, the home health agency shall not employ that applicant for any position for which a criminal records check is required by division (B)(1) of this section.~~

~~(C)(1) Except as provided in rules adopted by the department of health in accordance with division (F) of this section and subject to division (C)(3) of this section, no home health agency shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:~~

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

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

~~(2) Except as provided in rules adopted by the department of~~

~~health in accordance with division (F) of this section and subject to division (C)(3) of this section, no home health agency shall employ a person in a position that involves providing direct care to an older adult if the person previously has been convicted of or pleaded guilty to any of the following:~~

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

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

~~(3)(a)~~ A home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the agency requests under this section. A home health agency may charge an applicant a fee not exceeding the amount the agency pays to the bureau under this section if both of the following apply:

(a) The home health agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(b) The medicaid program established under Chapter 5111. of the Revised Code does not reimburse the home health agency for the

fee it pays to the bureau under this section.

(F) Divisions (C) to (E) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions that involve providing direct care to an individual and both of the following apply:

(1) The chief administrator of the home health agency receives from the employment service confirmation that a review of the databases listed in division (D) of this section was conducted with regard to the applicant or employee.

(2) The chief administrator of the home health agency receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the home health agency;

(b) In the case of an employee, the date by which the home health agency would otherwise have to request a criminal records check of the employee under division (E) of this section.

(G)(1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required ~~under division (B) of~~ by this section ~~as a person responsible for the care, custody, or control of a child until the criminal records check regarding the applicant required by this section is completed and the agency receives~~ before obtaining the results of the criminal records check if the agency is not prohibited by division (B) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies:

(a) The chief administrator of the home health agency requests the criminal records check in accordance with division (E) of this section not later than five business days after the applicant begins conditional employment.

(b) The applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter;

(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the home health agency when the employment service receives the results.

(2) If a home health agency employs an applicant conditionally pursuant to division (G)(1)(b) of this section, the employment service, on its receipt of the results of the criminal records check, promptly shall send a copy of the results to the chief administrator of the agency. ~~If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the applicant does not qualify for employment, the agency~~

~~shall release the applicant from employment unless the agency chooses to employ the applicant pursuant to division (F) of this section.~~

~~(b)(i) A home health agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section in a position that involves providing direct care to an older adult or in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults prior to obtaining the results of a criminal records check regarding the individual, provided that the agency shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home health agency may employ conditionally in a position that involves providing direct care to an older adult an applicant who has been referred to the home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section. In the circumstances described in division (I)(4) of this section, a home health agency may employ conditionally in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults an applicant who has been referred to the home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.~~

~~(ii)~~(3) A home health agency that employs an ~~individual~~ applicant conditionally ~~under authority of~~ pursuant to division ~~(C)(3)(b)(i)~~(G)(1)(a) or (b) of this section shall terminate the ~~individual's~~ applicant's employment if the results of the criminal records check ~~requested under division (B)(1) of this section or described in division (I)(2) or (4) of this section~~, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the ~~individual was employed conditionally in a position that involves the provision of direct care to older adults and the~~ results indicate that the ~~individual~~ applicant has been convicted of ~~or~~, pleaded guilty to ~~any of the offenses listed or described in division (C)(2) of this section, or if the individual was employed conditionally in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) or (2) of this section~~, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the home health agency shall terminate the ~~individual's~~ applicant's employment unless circumstances specified in rules adopted under this section that permit the agency to employ the applicant exist and the agency chooses to employ the ~~individual pursuant to division (F) of this section~~ applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the ~~individual~~ applicant makes any attempt to deceive the home health agency about the ~~individual's~~ applicant's criminal record.

~~(D)(1) Each home health agency shall pay to the bureau of~~

~~criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (B)(1) of this section of the chief administrator of the home health agency.~~

~~(2) A home health agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section, unless the medical assistance program established under Chapter 5111. of the Revised Code reimburses the agency for the costs. A fee charged under division (D)(2) of this section shall not exceed the amount of fees the agency pays under division (D)(1) of this section. If a fee is charged under division (D)(2) of this section, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the agency will not consider the applicant for employment.~~

~~(E)~~(H) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under ~~division (B)(1) of~~ this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The ~~individual~~ applicant or employee who is the subject of the criminal records check or the ~~individual's~~ applicant's or employee's representative;

(2) The home health agency requesting the criminal records check or its representative;

(3) The administrator of any other facility, agency, or program that provides direct care to ~~older adults~~ individuals that is owned or operated by the same entity that owns or operates the

home health agency that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) Any court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ any of the following:

(a) A denial of employment of the applicant or ~~dealing with employment~~ employee;

(b) Employment or unemployment benefits of the applicant or employee;

~~(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1), (2), (3), or (4) of this section~~ (c) A civil or criminal action regarding the medicaid program.

~~(F) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the home health agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but who meets standards in regard to rehabilitation set by the department or employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section but meets personal character standards set by the department.~~

~~(G) Any person required by division (B)(1) of this section to request a criminal records check shall inform each person, at the time of initial application for employment that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that~~

~~position.~~

~~(H)~~(I) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an ~~individual~~ applicant or employee who a home health agency employs in a position that involves providing direct care to ~~older adults~~ an individual, all of the following shall apply:

(1) If the home health agency employed the ~~individual~~ applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the agency shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate~~;~~.

(2) If the home health agency employed the ~~individual~~ applicant in good faith on a conditional basis pursuant to division ~~(C)(3)(b)~~(G) of this section, the agency shall not be found negligent solely because it employed the ~~individual~~ applicant prior to receiving the report of a criminal records check requested under this section~~;~~.

(3) If the home health agency in good faith employed the ~~individual~~ applicant or employee according to the personal character standards established in rules adopted under ~~division (F) of~~ this section, the agency shall not be found negligent solely because the ~~individual prior to being employed~~ applicant or employee had been convicted of ~~or~~, pleaded guilty to ~~an~~, or been found eligible for intervention in lieu of conviction for a disqualifying offense ~~listed or described in division (C)(1) or (2) of this section~~.

~~(I)(1) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal~~

~~records check of an applicant for a position that involves the provision of direct care to older adults if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:~~

~~(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;~~

~~(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home health agency chooses to employ the individual pursuant to division (F) of this section.~~

~~(2) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves providing direct care to older adults and may employ the applicant conditionally in a position of that nature as described in this division, if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding~~

~~the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(2) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home health agency. If a home health agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section applies regarding the conditional employment.~~

~~(3) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and both of the following apply:~~

~~(a) The chief administrator receives from the employment service or applicant a report of a criminal records check of the type described in division (I)(1)(a) of this section;~~

~~(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) or (2) of this section, or the report demonstrates that the person has been~~

~~convicted of or pleaded guilty to one or more of those offenses, but the home health agency chooses to employ the individual pursuant to division (F) of this section.~~

~~(4) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and may employ the applicant conditionally in a position of that nature as described in this division, if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) or (2) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home health agency. If a home health agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section~

~~applies regarding the conditional employment.~~

(J) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a home health agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(d) Circumstances under which a home health agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards.

Sec. ~~185.01~~ 3701.92. As used in ~~this chapter~~ sections 3701.921 to 3701.929 of the Revised Code:

(A) "Advanced practice nurse" has the same meaning as in section 4723.01 of the Revised Code.

(B) ~~"Collaboration" has the same meaning as in section 4723.01 of the Revised Code.~~

~~(C)~~ "Patient centered medical home education advisory group" means the entity established under section ~~185.03~~ 3701.924 of the Revised Code ~~to implement and administer the patient centered medical home education pilot project~~.

(D) "Patient centered medical home education program" means the program established under section 3701.921 of the Revised Code and any pilot projects operated pursuant to that section.

(E) "Patient centered medical home education pilot project" means the pilot project established under section ~~185.02~~ 3701.923 of the Revised Code.

(F) "Physician assistant" has the same meaning as in section 4730.01 of the Revised Code.

Sec. 3701.921. There is hereby established the patient centered medical home education program in the department of health. For the purpose of advancing education in the patient centered medical home model of care, the director of health may implement and administer the program pursuant to sections 3701.922 to 3701.929 of the Revised Code. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinate patient centered care.

To the extent that funds are available, the program shall include the patient centered medical home education pilot project

and may include any other pilot projects the director establishes pursuant to division (A)(3) of section 3701.922 of the Revised Code.

Sec. 3701.922. (A) The director of health may do any of the following to implement and administer the patient centered medical home education program:

(1) Develop and implement programs of education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care that are intended to address the multifaceted needs of patients and provide whole person comprehensive and coordinated patient centered care;

(2) Advise, consult, cooperate with, and assist, by contract or other arrangement, government agencies or institutions or private organizations, corporations, or associations in the development and promotion of programs pertaining to the evaluation and implementation of the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care;

(3) Establish pilot projects that do any of the following:

(a) Evaluate or implement the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care;

(b) Provide education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care.

(4) Seek and administer state funds or grants from other sources to carry out any functions of the patient centered medical home education program.

Any funds or grants received by the director for purposes of

the program shall be used for the program.

(B) The director may adopt rules as necessary to implement and administer the patient centered medical home education program, including rules that define what constitutes a "patient centered medical home" for purposes of an entity authorized to provide care coordination services. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. ~~185.02~~ 3701.923. (A) ~~There is hereby established the patient centered medical home education pilot project. The pilot project shall be implemented and administered by the patient centered medical home education advisory group.~~

~~(B) The pilot project shall be operated to advance medical education in the patient centered medical home model of care. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinated patient centered care.~~

~~(C)~~ To the extent that funds are available, the director of health shall establish the patient centered medical home education pilot project. If the director establishes the project, all of the following apply:

(1) The director shall select practices led by physicians and primary care practices led by advanced practice nurses to participate in the project. The director may consider the recommendations of the advisory group made in accordance with section 3701.925 of the Revised Code, but may not select a practice unless the practice complies with any applicable requirements under section 3701.926 of the Revised Code.

(2) The director shall conduct the project in a manner that advances education in the patient centered medical home model of

care.

(3) The director shall evaluate all of the following:

(a) Learning opportunities generated by the project;

(b) Training of physicians and advanced practice nurses under the project;

(c) Costs of the project;

(d) The extent to which the project met the expected outcomes developed under division (A) of section 3701.924 of the Revised Code.

(4) The director shall assess and review results of the project.

(5) The director shall recommend best practices and opportunities for improving technology, education, comprehensive training, consultation, and technical assistance for health care service providers in the patient centered medical home model of care.

(B) The director may contract with an entity that has significant experience in assisting physician-led practices and advanced practice nurse-led primary care practices in transitioning to the patient centered medical home model of care. The contract shall require the entity to do both of the following:

(1) Provide, to each practice that enters into a contract with the director pursuant to section 3701.927 of the Revised Code, comprehensive training, consultation, and technical assistance in the operation of a patient centered medical home, including assistance with leadership training, scheduling changes, staff support, and care management for chronic health conditions;

(2) Assist the director in identifying necessary financial and operational requirements and any barriers or challenges associated with transitioning to a patient centered medical home

model of care.

(C) The project established under this section shall begin not later than the date the first practice enters into a contract with the director pursuant to section 3701.927 of the Revised Code and shall cease not later than the date the final report is submitted pursuant to division (B)(3) of section 3701.929 of the Revised Code.

(D) The ~~pilot~~ project shall not be operated in a manner that requires a patient, unless otherwise required by the Revised Code, to receive a referral from a physician in a practice selected for inclusion in the pilot project under division (A)(1) of this section ~~185.05 of the Revised Code~~ as a condition of being authorized to receive specialized health care services from an individual licensed or certified under Title XLVII of the Revised Code to provide those services.

Sec. ~~185.03~~ 3701.924. (A) The patient centered medical home education advisory group is hereby created for the purpose of ~~implementing and administering~~ advising the director of health on the implementation and administration of the patient centered medical home ~~pilot project~~ education program. The advisory group shall develop and provide to the director a set of expected outcomes for the pilot project. The advisory group shall consider and provide other recommendations to the director and complete other duties as the director considers appropriate.

(B) The advisory group shall consist of the following ~~voting~~ members:

(1) The following members appointed by the director of health:

~~(1)~~(a) One individual with expertise in the training and education of primary care physicians ~~who is appointed~~ recommended

by the dean of the university of Toledo college of medicine;

~~(2)~~(b) One individual with expertise in the training and education of primary care physicians ~~who is appointed~~ recommended by the dean of the Boonshoft school of medicine at Wright state university;

~~(3)~~(c) One individual with expertise in the training and education of primary care physicians ~~who is appointed~~ recommended by the president and dean of the northeast Ohio medical university;

~~(4)~~(d) One individual with expertise in the training and education of primary care physicians ~~who is appointed~~ recommended by the dean of the Ohio university college of osteopathic medicine;

~~(5)~~(e) Two individuals ~~appointed~~ recommended by the governing board of the Ohio academy of family physicians;

~~(6)~~(f) One individual ~~appointed~~ recommended by the governing board of the Ohio chapter of the American college of physicians;

~~(7)~~(g) One individual ~~appointed~~ recommended by the governing board of the Ohio chapter of the American academy of pediatrics;

~~(8)~~(h) One individual ~~appointed~~ recommended by the governing board of the Ohio osteopathic association;

~~(9)~~(i) One individual with expertise in the training and education of advanced practice nurses ~~who is appointed,~~ recommended by the governing board of the Ohio council of deans and directors of baccalaureate and higher degree programs in nursing;

~~(10)~~(j) One individual ~~appointed~~ recommended by the governing board of the Ohio nurses association;

~~(11)~~(k) One individual ~~appointed~~ recommended by the governing board of the Ohio association of advanced practice nurses;

~~(12)~~(l) One individual ~~appointed~~ recommended by the governing board of the Ohio council for home care and hospice;

~~(13)~~(m) One individual ~~appointed~~ recommended by the superintendent of insurance~~;~~

(n) An employee of the department of health;

(o) Not more than five additional members who have relevant expertise that the director considers appropriate.

~~(C)~~(2) The ~~advisory group shall consist of the~~ following ~~nonvoting, ex officio~~ members:

~~(1)~~(a) The executive director of the state medical board~~,~~ or the director's designee;

~~(2)~~(b) The executive director of the board of nursing or the director's designee;

~~(3)~~(c) The chancellor of the Ohio board of regents~~,~~ or the chancellor's designee;

~~(4)~~(d) The ~~individual within the department of job and family services who serves as the~~ medical assistance director ~~of medicaid~~, or the director's designee~~;~~

~~(5) The director of health or the director's designee~~.

~~(D) Advisory group members who are appointed shall serve at the pleasure of their appointing authorities. Terms of office of appointed members shall be three years, except that a member's term ends if the pilot project ceases operation during the member's term.~~

(C)(1) In making the original appointments of the members specified in divisions (B)(1)(a) to (m) of this section, the director shall appoint the member who served in that capacity in the patient centered medical home advisory group, as it existed immediately prior to the effective date of this section. If for any reason the member who served immediately prior to the

effective date of this section is unable to serve on the advisory group, the director shall request from the specified recommending authority a list of not less than two persons qualified to serve as members of the advisory group. The director shall appoint as a member one person from the list submitted by the recommending authority.

(2) The advisory group members specified in divisions (B)(1)(a) to (m) of this section shall serve at the pleasure of the director, in consultation with their respective recommending authorities.

(3) Vacancies shall be filled in the manner provided for original appointments.

(D) Members shall serve without compensation, except to the extent that serving on the advisory group is considered part of their regular employment duties.

(E) The ~~advisory group shall select~~ director may appoint from ~~among its~~ the members of the advisory group a chairperson and vice-chairperson. ~~The advisory group may select any other officers it considers necessary to conduct its business.~~

A majority of the members of the advisory group constitutes a quorum ~~for the transaction of official business~~. A majority of a quorum is necessary for the advisory group to ~~take any action, except that when one or more members of a quorum are required to abstain from voting as provided in division (C)(1)(d) or (C)(2)(c) of section 185.05 of the Revised Code, the number of members necessary for a majority of a quorum shall be reduced accordingly~~ make any recommendations to the director.

The advisory group shall meet ~~as necessary to fulfill its duties. The times and places for the meetings shall be selected by the chairperson~~ at the call of the director. The director shall call the advisory group to meet not less than annually to discuss

or consider recommendations to the director on the administration of the patient centered medical home education program.

(F) Sections 101.82 to 101.87 of the Revised Code do not apply to the advisory group.

Sec. ~~185.05~~ 3701.925. (A) The patient centered medical home education advisory group shall accept applications for inclusion in the patient centered medical home education pilot project from primary care practices with educational affiliations, as determined by the advisory group, with one or more of the following:

(1) The Boonshoft school of medicine at Wright state university;

(2) The university of Toledo college of medicine;

(3) The northeast Ohio medical university;

(4) The Ohio university college of osteopathic medicine;

(5) The college of nursing at the university of Toledo;

(6) The Wright state university college of nursing and health;

(7) The college of nursing at Kent state university;

(8) The university of Akron college of nursing;

(9) The school of nursing at Ohio university.

(B)(1) Subject to division (C)(1) of this section, the advisory group shall ~~select~~ recommend to the director of health for inclusion in the pilot project not ~~more~~ less than the following number of ~~physician~~ practices led by physicians:

(a) Ten practices affiliated with the Boonshoft school of medicine at Wright state university;

(b) Ten practices affiliated with the university of Toledo

college of medicine;

(c) Ten practices affiliated with the northeast Ohio medical university;

(d) Ten practices affiliated with the centers for osteopathic research and education of the Ohio university college of osteopathic medicine.

(2) Subject to division (C)(2) of this section, the advisory group shall ~~select~~ recommend to the director of health for inclusion in the pilot project not less than the following number of ~~advanced practice nurse~~ primary care practices led by advanced practice nurses:

(a) One practice affiliated with the college of nursing at the university of Toledo;

(b) One practice affiliated with the Wright state university college of nursing and health;

(c) One practice affiliated with the college of nursing at Kent state university or the university of Akron college of nursing;

(d) One practice affiliated with the school of nursing at Ohio university.

(C)(1) All of the following apply with respect to the ~~selection~~ recommendation of ~~physician~~ physician-led practices under division (B) of this section:

(a) The advisory group shall strive to ~~select physician~~ recommend physician-led practices in such a manner that the pilot project includes a diverse range of primary care specialties, including practices specializing in pediatrics, geriatrics, general internal medicine, or family medicine.

(b) When evaluating an application, the advisory group shall consider the percentage of patients in the ~~physician~~ physician-led

practice who are part of a medically underserved population, including medicaid recipients and individuals without health insurance.

(c) The advisory group shall ~~select~~ recommend not fewer than six practices that serve rural areas of this state, as those areas are determined by the advisory group.

(d) A member of the advisory group shall abstain from participating in any vote taken regarding the ~~selection~~ recommendation of a ~~physician~~ physician-led practice if the member would receive any financial benefit from having the practice included in the pilot project.

(2) All of the following apply with respect to the ~~selection~~ recommendation of advanced practice ~~nurse~~ nurse-led primary care practices under division (B) of this section:

(a) When evaluating an application, the advisory group shall consider the percentage of patients in the advanced practice ~~nurse~~ nurse-led primary care practice who are part of a medically underserved population, including medicaid recipients and individuals without health insurance.

(b) If the advisory group determines that it has not received an application from a sufficiently qualified advanced practice ~~nurse~~ nurse-led primary care practice affiliated with a particular institution specified in division (B)(2) of this section, the advisory group shall make the ~~selections~~ recommendations required under that division in such a manner that the greatest possible number of those institutions are ~~represented~~ recommended to be included in the pilot project. To be ~~selected~~ recommended in this manner, a practice remains subject to the eligibility requirements specified in division (B) of section ~~185.06~~ 3701.926 of the Revised Code. As specified in division (B)(2) of this section, the number of practices ~~selected~~ recommended for inclusion in the

pilot project shall be at least four.

(c) A member of the advisory group shall abstain from participating in any vote taken regarding the ~~selection~~ recommendation of an advanced practice ~~nurse~~ nurse-led primary care practice if the member would receive any financial benefit from having the practice included in the pilot project.

(D) The advisory group shall provide a copy of all applications received under this section to the director of health after making recommendations under division (B)(1) of this section.

Sec. ~~185.06~~ 3701.926. (A) To be eligible for inclusion in the patient centered medical home education pilot project, a ~~physician~~ physician-led practice shall meet all of the following requirements:

(1) Consist of physicians who are board-certified in family medicine, general pediatrics, or internal medicine, as those designations are issued by a medical specialty certifying board recognized by the American board of medical specialties or American osteopathic association;

(2) Be capable of adapting the practice during the period in which the practice ~~receives funding from~~ participates in the patient centered medical home education ~~advisory group~~ pilot project in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the ~~advisory group~~ director of health;

(3) Have submitted an application to participate in the project established under former section 185.05 of the Revised Code not later than April 15, 2011.

(4) Meet any other criteria established by the ~~advisory group~~

director as part of the selection process.

(B) To be eligible for inclusion in the pilot project, an advanced practice ~~nurse~~ nurse-led primary care practice shall meet all of the following requirements:

(1) Consist of advanced practice nurses ~~who meet~~, each of whom meets all of the following requirements:

(a) ~~Hold~~ Holds a certificate to prescribe issued under section 4723.48 of the Revised Code;

(b) ~~Are~~ Is board-certified as a family nurse practitioner or adult nurse practitioner by the American academy of nurse practitioners or American nurses credentialing center, board-certified as a geriatric nurse practitioner or women's health nurse practitioner by the American nurses credentialing center, or is board-certified as a pediatric nurse practitioner by the American nurses credentialing center or pediatric nursing certification board;

(c) ~~Has a collaboration agreement~~ Collaborates under a standard care arrangement with a physician with board certification as specified in division (A)(1) of this section and who is an active participant on the health care team.

(2) Be capable of adapting the primary care practice during the period in which the practice ~~receives funding from~~ participates in the ~~advisory group~~ project in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the ~~advisory group~~ director;

(3) Have submitted an application to participate in the project established under former section 185.05 of the Revised Code not later than April 15, 2011.

(4) Meet any other criteria established by the ~~advisory group~~

director as part of the selection process.

Sec. ~~185.07~~ 3701.927. The ~~patient centered medical home education advisory group~~ director of health shall enter into a contract with each primary care practice selected by the director for inclusion in the patient centered medical home education pilot project. The contract shall specify the terms and conditions for inclusion in the pilot project, including a requirement that the practice provide comprehensive, coordinated primary care services to patients and serve as the patients' medical home. The contract shall also require the practice to participate in the training of medical students, advanced practice nursing students, ~~or~~ physician assistant students, and primary care medical residents.

The director may include as part of the contract any other requirements necessary for a practice to be included in the project, including requirements regarding the number of patients served who are medicaid recipients and individuals without health insurance.

Sec. ~~185.09~~ 3701.928. (A) The director of health or, at the director's request, the patient centered medical home education advisory group ~~shall jointly~~ may work with ~~all~~ medical ~~and,~~ nursing, and physician assistant schools or programs in this state to develop appropriate curricula designed to prepare primary care physicians ~~and,~~ advanced practice nurses, and physician assistants to practice within the patient centered medical home model of care. In developing the curricula, the director or advisory group~~,~~ ~~medical schools, and nursing~~ and the schools or programs shall include all of the following:

(1) Components for use at the medical student, advanced practice nursing student, physician assistant student, and primary care resident training levels;

(2) Components that reflect, as appropriate, the special needs of patients who are part of a medically underserved population, including medicaid recipients, individuals without health insurance, individuals with disabilities, individuals with chronic health conditions, and individuals within racial or ethnic minority groups;

(3) Components that include training in interdisciplinary cooperation between physicians ~~and,~~ advanced practice nurses, and physician assistants in the patient centered medical home model of care, including curricula ensuring that a common conception of a patient centered medical home model of care is provided to medical students, advanced practice nurses, physician assistants, and primary care residents.

(B) The director or advisory group ~~shall~~ may work in association with the medical ~~and,~~ nursing, and physician assistant schools or programs to identify funding sources to ensure that the curricula developed under division (A) of this section are accessible to medical students, advanced practice nursing students, physician assistant students, and primary care residents. The director or advisory group shall consider scholarship options or incentives provided to students in addition to those provided under the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code.

Sec. ~~185.12~~ 3701.929. (A) ~~The patient centered medical home education advisory group~~ If the director of health establishes the patient centered medical home education pilot project, the director shall prepare reports of its findings and recommendations from the ~~patient centered medical home education~~ pilot project. Each report shall include an evaluation of the learning opportunities generated by the pilot project, the physicians and advanced practice nurses trained in the pilot project, the costs

of the pilot project, and the extent to which the pilot project has met the set of expected outcomes developed under division (A) of section ~~185.03~~ 3701.924 of the Revised Code.

(B) The reports shall be completed in accordance with the following schedule:

(1) An interim report not later than six months after the date on which the ~~first funding is released~~ last primary care practice selected to participate in the project enters into a contract with the department of health pursuant to section ~~185.11~~ 3701.927 of the Revised Code;

(2) An update of the interim report not later than one year after the date ~~on which the first funding is released~~ specified under division (B)(1) of this section;

(3) A final report not later than two years after the date ~~on which the first funding is released~~ specified under division (B)(1) of this section.

(C) The ~~advisory group~~ director shall submit each of the reports to the governor and, in accordance with section 101.68 of the Revised Code, to the general assembly.

Sec. 3701.93. Subject to available funds, the director of health shall establish the Ohio violent death reporting system to collect and maintain information, data, and records regarding violent deaths in Ohio.

Sec. 3701.931. The Ohio violent death reporting system shall do all of the following regarding violent death information, data, and records maintained in the system:

(A) Monitor the incidence and causes of the various types of violent deaths;

(B) Make appropriate epidemiologic studies of the violent deaths;

(C) Analyze trends and patterns in, and circumstances related to, the violent deaths;

(D) With the assistance of the advisory group established pursuant to section 3701.932 of the Revised Code, recommend actions to relevant entities to prevent violent deaths and make any other such recommendations the director of health determines necessary.

Sec. 3701.932. The director of health shall establish an advisory group of interested parties and stakeholders to recommend actions to relevant entities to prevent violent deaths, and make other recommendations the director determines necessary, in accordance with division (D) of section 3701.931 of the Revised Code.

Sec. 3701.933. The data collection model used by the Ohio violent death reporting system shall follow the data collection model used by the United States centers for disease control and prevention national violent death reporting system and any other data collection model set forth by the director of health pursuant to section 3701.934 of the Revised Code.

Sec. 3701.934. The director of health, pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, shall do all of the following:

(A) Specify the types of violent deaths that shall be included in the Ohio violent death reporting system;

(B) Specify the information, data, and records to be collected for use by the Ohio violent death reporting system;

(C) Specify the sources from which the information, data, and

records are to be collected for use by the Ohio violent death reporting system;

(D) If determined appropriate by the director, set forth any other data collection model to be used by the Ohio violent death reporting system.

Sec. 3701.935. The director of health shall collect information about violent deaths in Ohio only from existing sources related to violent crimes and shall not conduct independent criminal investigations in order to obtain information, data, or records for use by the Ohio violent death reporting system.

Sec. 3701.936. At the request of the director of health, every department, agency, and political subdivision of the state shall provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code.

Sec. 3701.937. At the request of the director of health, any individual or entity not specified in section 3701.936 of the Revised Code, at the individual's or entity's discretion, may provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code. Any information, data, and records provided to the director by any other individual or entity shall contain only information, data, or records that are available or reasonably drawn from any information, data, and record developed and kept in the normal course of business.

Sec. 3701.938. Notwithstanding any section of the Revised Code pertaining to confidentiality, any individual, public social service agency, or public agency that provides services to

individuals or families, law enforcement agency, coroner, or public entity that provided services to an individual whose death is the type of death specified by the director of health under section 3701.934 of the Revised Code shall provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code.

Sec. 3701.9310. Except as otherwise provided in section 3701.9212 of the Revised Code, all of the following are not public records under section 149.43 of the Revised Code, shall be confidential, and shall be published only in statistical form:

(A) Information, data, and records collected for use and maintained by the Ohio violent death reporting system including, but not limited to, medical records, law enforcement investigative records, coroner investigative records, laboratory reports, and other records concerning a decedent;

(B) Work products created in carrying out the purposes of the Ohio violent death reporting system.

Sec. 3701.9311. Information, data, and records collected for use and maintained by, and all work products created in carrying out the purposes of, the Ohio violent death reporting system shall not be subject to subpoena or discovery while in the possession of the system or admissible in any criminal or civil proceeding if obtained through, or from, the system.

Sec. 3701.9312. The director of health, pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, shall establish standards and procedures to make available to researchers confidential information collected by the Ohio violent death reporting system. Researchers complying with those standards and procedures also shall comply with the confidentiality

requirements of section 3701.9310 of the Revised Code.

Sec. 3701.9314. The director of health may adopt rules in accordance with Chapter 119. of the Revised Code necessary to establish, maintain, and carry out the purposes of the Ohio violent death reporting system under sections 3701.93 to 3701.9314 of the Revised Code.

Sec. 3702.141. (A) As used in this section:

(1) "Existing health care facility" means a health care facility that is licensed or otherwise approved to practice in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and actively provides health services or has not been actively providing health services for less than twelve consecutive months.

(2) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.

(3) "Health care facility" ~~and "health service" have the same meanings as in section 3702.51 of the Revised Code~~ means:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(c) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42

U.S.C.A. 301, as amended;

(d) A freestanding dialysis center;

(e) A freestanding inpatient rehabilitation facility;

(f) An ambulatory surgical facility;

(g) A freestanding cardiac catheterization facility;

(h) A freestanding birthing center;

(i) A freestanding or mobile diagnostic imaging center;

(j) A freestanding radiation therapy center.

A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(4) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service.

(B) Section 3702.14 of the Revised Code shall not be construed to require any existing health care facility that is conducting an activity specified in section 3702.11 of the Revised Code, which activity was initiated on or before March 20, 1997, to alter, upgrade, or otherwise improve the structure or fixtures of the facility in order to comply with any rule adopted under section 3702.11 of the Revised Code relating to that activity,

unless one of the following applies:

(1) The facility initiates a construction, renovation, or reconstruction project that involves a capital expenditure of at least fifty thousand dollars, not including expenditures for equipment or staffing or operational costs, and that directly involves the area in which the existing service is conducted.

(2) The facility initiates another activity specified in section 3702.11 of the Revised Code.

(3) ~~The facility initiates a service level designation change for obstetric and newborn care.~~

~~(4)~~ The facility proposes to add a cardiac catheterization laboratory to an existing cardiac catheterization service.

~~(5)~~(4) The facility proposes to add an open-heart operating room to an existing open-heart surgery service.

~~(6)~~(5) The director of health determines, by clear and convincing evidence, that failure to comply with the rule would create an imminent risk to the health and welfare of any patient.

(C) If division (B)~~(4)~~(3) or ~~(5)~~(4) of this section applies, any alteration, upgrade, or other improvement required shall apply only to the proposed addition to the existing service if the cost of the addition is less than the capital expenditure threshold set forth in division (B)(1) of this section.

(D) No person or government entity shall divide or otherwise segment a construction, renovation, or reconstruction project in order to evade application of the capital expenditure threshold set forth in division (B)(1) of this section.

Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and sections 3702.11 to 3702.20, 3702.30, 3702.301, ~~and~~ 3702.32, and

3702.33 of the Revised Code and rules adopted pursuant to those sections. The director shall deposit in the fund any moneys collected pursuant to this section or section 3702.32 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(B) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code establishing fees for both of the following:

(1) Initial and renewal license applications submitted under section 3702.30 of the Revised Code. The fees established under division (B)(1) of this section shall not exceed the actual and necessary costs of performing the activities described in division (A) of this section.

(2) Inspections conducted under section 3702.15 or 3702.30 of the Revised Code. The fees established under division (B)(2) of this section shall not exceed the actual and necessary costs incurred during an inspection, including any indirect costs incurred by the department for staff, salary, or other administrative costs. The director of health shall provide to each health care facility or provider inspected pursuant to section 3702.15 or 3702.30 of the Revised Code a written statement of the fee. The statement shall itemize and total the costs incurred. Within fifteen days after receiving a statement from the director, the facility or provider shall forward the total amount of the fee to the director.

(3) The fees described in divisions (B)(1) and (2) of this section shall meet both of the following requirements:

(a) For each service described in section 3702.11 of the Revised Code, the fee shall not exceed one thousand seven hundred fifty dollars annually, except that the total fees charged to a health care provider under this section shall not exceed five

thousand dollars annually.

(b) The fee shall exclude any costs reimbursable by the United States centers for medicare and medicaid services as part of the certification process for the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1935), 42 U.S.C.A. 1395, as amended, and the medicaid program established under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396.

(4) The director shall not establish a fee for any service for which a licensure or inspection fee is paid by the health care provider to a state agency for the same or similar licensure or inspection.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "~~Health service~~ Service area" means ~~a geographic region designated by the director of health under section 3702.58 of the Revised Code~~ the current and projected primary and secondary service areas to which the long-term care facility is, or will be, providing long-term care services.

(E) "~~Health~~ Primary service area" means ~~a clinically related service, such as a diagnostic, treatment, rehabilitative, or~~

~~preventive service~~ the geographic region, usually comprised of the Ohio zip code in which the long-term care facility is located and contiguous zip codes, from which approximately seventy-five to eighty per cent of the facility's residents currently originate or are expected to originate.

(F) "~~Health~~ Secondary service ~~agency~~ area" means ~~an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code~~ the geographic region, usually comprised of Ohio zip codes not included in the primary service area, excluding isolated exceptions, from which the facility's remaining residents currently originate or are expected to originate.

(G) ~~"Health care facility" means:~~

~~(1) A hospital registered under section 3701.07 of the Revised Code;~~

~~(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;~~

~~(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

~~(4) A freestanding dialysis center;~~

~~(5) A freestanding inpatient rehabilitation facility;~~

~~(6) An ambulatory surgical facility;~~

~~(7) A freestanding cardiac catheterization facility;~~

~~(8) A freestanding birthing center;~~

~~(9) A freestanding or mobile diagnostic imaging center;~~

~~(10) A freestanding radiation therapy center.~~

~~A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.~~

~~(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.~~

~~(I)~~ "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division ~~(K)~~(I) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

~~(J)~~(H) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

~~(K)~~(I) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

~~(L)~~(J) "Existing ~~health~~ long-term care facility" means either of the following:

(1) A ~~health~~ long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified ~~as of February 1, 2008,~~ under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, is staffed and equipped to provide ~~health~~ long-term care services, and is actively providing ~~health~~ long-term care services;

(2) A ~~health~~ long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified ~~as of February 1, 2008,~~ under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or that has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided long-term care services for at least three hundred sixty-five consecutive days within the twenty-four months immediately preceding the date a certificate of need application is filed with the director of health.

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

~~(N)~~(L) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches.

~~(O)~~(M) "Affected person" means:

(1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question;

(2) The person that requested the reviewability ruling in question;

(3) Any person that resides or regularly uses ~~health~~ long-term care facilities within the ~~geographic~~ service area served or to be served by the ~~health~~ long-term care services that would be provided under the certificate of need or reviewability ruling in question;

(4) Any ~~health~~ long-term care facility that is located in the ~~health~~ service area where the ~~health~~ long-term care services would be provided under the certificate of need or reviewability ruling in question;

(5) Third-party payers that reimburse ~~health~~ long-term care facilities for services in the ~~health~~ service area where the ~~health~~ long-term care services would be provided under the certificate of need or reviewability ruling in question~~;~~.

~~(6) Any other person who testified at a public hearing held under division (B) of section 3702.52 of the Revised Code or submitted written comments in the course of review of the certificate of need application in question.~~

~~(P) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:~~

~~(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic~~

~~physician;~~

~~(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;~~

~~(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.~~

~~(Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.~~

~~(R) Except as provided in division (S) of this section, "reviewable activity" means any of the following activities:~~

~~(1) The establishment, development, or construction of a new long-term care facility;~~

~~(2) The replacement of an existing long-term care facility;~~

~~(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;~~

~~(4) Either of the following changes in long-term care bed capacity:~~

~~(a) An increase in bed capacity;~~

~~(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site.~~

~~(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;~~

~~(6) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds.~~

~~(S) "Reviewable activity" does not include any of the following activities:~~

~~(1) Acquisition of computer hardware or software;~~

~~(2) Acquisition of a telephone system;~~

~~(3) Construction or acquisition of parking facilities;~~

~~(4) Correction of cited deficiencies that are in violation of federal, state, or local fire, building, or safety laws and rules and that constitute an imminent threat to public health or safety;~~

~~(5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;~~

~~(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;~~

~~(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;~~

~~(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;~~

~~(9) Construction, repair, or renovation of bathroom facilities;~~

~~(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of~~

~~medical office buildings used exclusively for physician services;~~

~~(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (S)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.~~

~~(12) Removal of asbestos from a health care facility.~~

~~Only that portion of a project that meets the requirements of this division is not a reviewable activity.~~

~~(T) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year.~~

~~(U) "Children's hospital" means any of the following:~~

~~(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;~~

~~(2) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;~~

~~(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (U)(1) of this section.~~

~~(V)~~(N) "Long-term care facility" means any of the following:

(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

~~(W)~~(O) "Long-term care bed" or "bed" means a bed ~~in a long-term care facility~~ that is categorized as one of the following:

(1) A bed that is located in a facility that is a nursing home licensed under section 3721.02 of the Revised Code or a facility licensed by a political subdivision certified under section 3721.09 of the Revised Code and is included in the authorized maximum licensed capacity of the facility;

(2) A bed that is located in the portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility under the medicare program or a nursing facility under the medicaid program and is included in the authorized maximum certified capacity of that portion of the facility;

(3) A bed that is registered under section 3701.07 of the

Revised Code as a skilled nursing bed, a long-term care bed, or a special skilled nursing bed;

(4) A bed in a county home or county nursing home that has been certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and is eligible for licensure as a nursing home bed;

(5) A bed held as an approved bed under a certificate of need approved by the director.

A bed cannot simultaneously be both a bed described in division (O)(1), (2), (3), or (4) of this section and a bed described in division (O)(5) of this section.

~~(X) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.~~

~~(Y)(1)~~(P) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.

~~(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.~~

~~(Z)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments.~~

~~(2) "Rural area" means any area of this state not located~~

~~within a metropolitan statistical area.~~

~~(AA)~~(Q) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code.

~~(BB)~~(R) "Principal participant" means both of the following:

(1) A person who has an ownership or controlling interest of at least five per cent in an applicant, in a ~~health~~ long-term care facility that is the subject of an application for a certificate of need, or in the owner or operator of the applicant or such a facility;

(2) An officer, director, trustee, or general partner of an applicant, of a ~~health~~ long-term care facility that is the subject of an application for a certificate of need, or of the owner or operator of the applicant or such a facility.

~~(CC)~~(S) "Actual harm but not immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in actual harm that is not immediate jeopardy or represents widespread deficiencies resulting in actual harm that is not immediate jeopardy.

~~(DD)~~(T) "Immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in immediate jeopardy to resident health or safety or represents widespread deficiencies resulting in immediate jeopardy to resident health or safety.

(U) "Existing bed" or "existing long-term care bed" means a bed from an existing long-term care facility, a bed described in division (O)(5) of this section, or a bed correctly reported as a long-term care bed pursuant to section 5155.38 of the Revised Code.

Sec. 3702.511. (A) Except as provided in division (B) of this

section, the following activities are reviewable under sections 3702.51 to 3702.62 of the Revised Code:

(1) Establishment, development, or construction of a new long-term care facility;

(2) Replacement of an existing long-term care facility;

(3) Renovation of or addition to a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;

(4) Either of the following changes in long-term care bed capacity:

(a) An increase in bed capacity;

(b) A relocation of beds from one physical facility or site to another, excluding relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site.

(5) Any change in the bed capacity or site, or any other failure to conduct a reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;

(6) Expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds.

(B) The following activities are not subject to review under sections 3702.51 to 3702.62 of the Revised Code:

(1) Acquisition of computer hardware or software;

(2) Acquisition of a telephone system;

(3) Construction or acquisition of parking facilities;

(4) Correction of cited deficiencies that constitute an imminent threat to public health or safety and are in violation of federal, state, or local fire, building, or safety statutes, ordinances, rules, or regulations;

(5) Acquisition of an existing long-term care facility that does not involve a change in the number of the beds;

(6) Mergers, consolidations, or other corporate reorganizations of long-term care facilities that do not involve a change in the number of beds;

(7) Construction, repair, or renovation of bathroom facilities;

(8) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;

(9) Removal of asbestos from a health care facility.

Only that portion of a project that is described in this division is not reviewable.

Sec. 3702.52. The director of health shall administer a state certificate of need program in accordance with sections 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections.

(A) The director shall issue rulings on whether a particular proposed project is a reviewable activity. The director shall issue a ruling not later than forty-five days after receiving a request for a ruling accompanied by the information needed to make the ruling. If the director does not issue a ruling in that time, the project shall be considered to have been ruled not a reviewable activity.

(B)(1) Each application for a certificate of need shall be submitted to the director on forms and in the manner prescribed by the director. Each application shall include a plan for obligating the capital expenditures or implementing the proposed project on a timely basis in accordance with section ~~3702.525~~ 3702.524 of the Revised Code. Each application shall also include all other information required by rules adopted under division (B) of section 3702.57 of the Revised Code.

(2) Each application shall be accompanied by the application fee established in rules adopted under division (G) of section 3702.57 of the Revised Code. Application fees received by the director under this division shall be deposited into the state treasury to the credit of the certificate of need fund, which is hereby created. The director shall use the fund only to pay the costs of administering sections 3702.11 to 3702.20, 3702.30, and 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections. An application fee is nonrefundable unless the director determines that the application cannot be accepted.

(3) The director shall review applications for certificates of need. As part of a review, the director shall determine whether an application is complete. The director shall not consider an application to be complete unless the application meets all criteria for a complete application specified in rules adopted under section 3702.57 of the Revised Code. The director shall mail to the applicant a written notice that the application is complete, or a written request for additional information, not later than thirty days after receiving an application or a response to an earlier request for information. Except as provided in section ~~3702.523~~ 3702.522 of the Revised Code, the director shall not make more than two requests for additional information. The director's determination that an application is not complete is final and not subject to appeal.

~~The director may conduct a public informational hearing in the course of reviewing any application for a certificate of need, and shall conduct one if requested to do so by any affected person not later than fifteen days after the director mails the notice that the application is complete. The hearing shall be conducted in the community in which the activities authorized by the certificate of need would be carried out. Any affected person may testify at the hearing. The director may, with the health service agency's consent, designate a health service agency to conduct the hearing.~~

(4) Except ~~during a public hearing or~~ as necessary to comply with a subpoena issued under division ~~(E)~~(F) of this section, after a notice of completeness has been received, no person shall make revisions to information that was submitted to the director before the director mailed the notice of completeness or knowingly discuss in person or by telephone the merits of the application with the director. A person may supplement an application after a notice of completeness has been received by submitting clarifying information to the director. ~~If one or more persons request a meeting in person or by telephone, the director shall make a reasonable effort to invite interested parties to the meeting or conference call.~~

(C) All of the following apply to the process of granting or denying a certificate of need:

(1) If the project proposed in a certificate of need application meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections, the director shall grant a certificate of need for all or part of the project that is the subject of the application by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section.

(2) The director's grant of a certificate of need does not affect, and sets no precedent for, the director's decision to grant or deny other applications for similar reviewable activities ~~proposed to be conducted in the same or different health service areas~~.

(3) ~~If the director receives written objections to an application from any~~ Any affected person may submit written comments regarding an application. The director shall consider all written comments received by the thirtieth day after mailing the notice of completeness~~, the director shall notify the applicant and assign a hearing examiner to conduct an adjudication hearing concerning the application in accordance with Chapter 119. of the Revised Code. In~~ or, in the case of applications under comparative review, ~~if the director receives written objections to any of the applications from any affected person~~ by the thirtieth day after the director mails the last notice of completeness~~, the director shall notify all of the applicants and appoint a hearing examiner to conduct a consolidated adjudication hearing concerning the applications in accordance with Chapter 119. of the Revised Code. The hearing examiner shall be employed by or under contract with the department of health.~~

~~The adjudication hearings may be conducted in the health service area in which the reviewable activity is proposed to be conducted. Consolidated adjudication hearings for applications in comparative review may be conducted in the geographic region in which all of the reviewable activities will be conducted. The applicant, the director, and the affected persons that filed objections to the application shall be parties to the hearing. If none of the affected persons that submitted written objections to the application appears or prosecutes the hearing, the hearing examiner shall dismiss the hearing and the director shall grant a certificate of need for all or part of the project that is the~~

~~subject of the application if the proposed project meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections. The affected persons bear the burden of proving by a preponderance of evidence that the project is not needed or that granting the certificate would not be in accordance with sections 3702.51 to 3702.62 of the Revised Code or the rules adopted under those sections~~.

(4) Except as provided in division (C)(5) of this section, the director shall grant or deny certificate of need applications ~~for which an adjudication hearing is not conducted under division (C)(3) of this section~~ not later than sixty days after mailing the notice of completeness ~~or, in the case of an application proposing addition of long-term care beds, not later than sixty days after such other time as is specified in rules adopted under section 3702.57 of the Revised Code. Except as provided in division (C)(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is conducted under division (C)(3) of this section not later than thirty days after the expiration of the time for filing objections to the report and recommendation of the hearing examiner under section 119.09 of the Revised Code. The director shall base decisions concerning applications for which an adjudication hearing is conducted under division (C)(3) of this section on the report and recommendations of the hearing examiner~~.

(5) Except as otherwise provided in division (C)(6) of this section, the director or the applicant may extend the deadline prescribed in division (C)(4) of this section once, for no longer than thirty days, by written notice before the end of the deadline prescribed by division (C)(4) of this section. An extension by the director under division (C)(5) of this section shall apply to all applications that are in comparative review.

(6) No applicant in a comparative review may extend the deadline specified in division (C)(4) of this section.

(7) If the director does not grant or deny the certificate by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section, the certificate shall be considered to have been granted.

(8) In granting a certificate of need, the director shall specify as the maximum capital expenditure the certificate holder may obligate under the certificate a figure equal to one hundred ten per cent of the approved project cost.

(9) In granting a certificate of need, the director may grant the certificate with conditions that must be met by the holder of the certificate.

(D) When a certificate of need is granted for a project under which beds are to be relocated, upon completion of the project for which the certificate of need was granted a number of beds equal to the number of beds relocated shall cease to be operated in the long-term care facility from which they are relocated, except that the beds may continue to be operated for not more than fifteen days to allow relocation of residents to the facility to which the beds have been relocated. Notwithstanding section 3721.03 of the Revised Code, if the relocated beds are in a home licensed under Chapter 3721. of the Revised Code, the facility's license is automatically reduced by the number of beds relocated effective fifteen days after the beds are relocated. If the beds are in a facility that is certified as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," the certification for the beds shall be surrendered. If the beds are registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds, the director shall remove the beds from registration not later than fifteen days after the beds are relocated.

(E) The director shall monitor the activities of persons granted certificates of need during the period beginning with the granting of the certificate of need and ending five years after implementation of the activity for which the certificate was granted.

~~(E)~~(F) When reviewing applications for certificates of need, considering appeals under section 3702.60 of the Revised Code, or monitoring activities of persons granted certificates of need, the director may issue and enforce, in the manner provided in section 119.09 of the Revised Code, subpoenas and subpoenas duces tecum to compel ~~the production of~~ a person to testify and produce documents relevant to review of the application, consideration of the appeal, or monitoring of the activities. In addition, the director or the director's designee~~, which may include a health service agency,~~ may visit the sites where the activities are or will be conducted.

~~(F)~~(G) The director may withdraw certificates of need.

~~(G) The director shall conduct, on a regular basis, health system data collection and analysis activities and prepare reports. The director shall make recommendations based upon these activities to the public health council concerning the adoption of appropriate rules under section 3702.57 of the Revised Code.~~ (H) All ~~health~~ long-term care facilities ~~and other health care providers~~ shall submit to the director, upon request, any information prescribed by rules adopted under division (H) of section 3702.57 of the Revised Code that is necessary to conduct reviews of certificate of need applications and to develop ~~recommendations for~~ criteria for reviews~~, and that is prescribed by rules adopted under division (H) of section 3702.57 of the Revised Code~~.

~~(H)~~(I) Any decision to grant or deny a certificate of need shall consider the special needs and circumstances resulting from

moral and ethical values and the free exercise of religious rights of ~~health~~ long-term care facilities administered by religious organizations, and the special needs and circumstances of inner city and rural communities.

Sec. ~~3702.522~~ 3702.521. (A) Reviews of applications for certificates of need to recategorize hospital beds to skilled nursing beds shall be conducted in accordance with this division and rules adopted by the ~~public~~ director of health ~~council~~.

(1) No hospital recategorizing beds shall apply for a certificate of need for more than twenty skilled nursing beds.

(2) No beds for which a certificate of need is requested under this division shall be reviewed under or counted in any formula developed under ~~public health council~~ rules adopted by the director for the purpose of determining the number of long-term care beds that may be needed within the state.

(3) No beds shall be approved under this division unless the hospital certifies and demonstrates in the application that the beds will be dedicated to patients with a length of stay of no more than thirty days.

(4) No beds shall be approved under this division unless the hospital can satisfactorily demonstrate in the application that it is routinely unable to place the patients planned for the beds in accessible skilled nursing facilities.

(5) In developing rules to implement this division, the ~~public health council~~ director shall give special attention to the required documentation of the need for such beds, including the efforts made by the hospital to place patients in suitable skilled nursing facilities, and special attention to the appropriate size of units with such beds given the historical pattern of the applicant hospital's documented difficulty in placing skilled

nursing patients.

(B) ~~To assist the director of health~~ For assistance in monitoring the use of hospital beds recategorized as skilled nursing beds after August 5, 1989, the ~~public health council~~ director shall adopt rules specifying appropriate quarterly procedures for reporting to the department of health.

(C) A patient may stay in a hospital bed that, after August 5, 1989, has been recategorized as a skilled nursing bed for more than thirty days if the hospital is able to demonstrate that it made a good faith effort to place the patient in an accessible skilled nursing facility acceptable to the patient within the thirty-day period, but was unable to do so.

(D) No hospital bed recategorized after August 5, 1989, as a skilled nursing bed shall be covered by a provider agreement under the medical assistance program established under Chapter 5111. of the Revised Code.

(E) Nothing in this section requires a hospital to place a patient in any nursing home if the patient does not wish to be placed in the nursing home. Nothing in this section limits the ability of a hospital to file a certificate of need application for the addition of long-term care beds that meet the definition of "home" in section 3721.01 of the Revised Code. Nothing in this section limits the ability of the director to grant certificates of need necessary for hospitals to engage in demonstration projects authorized by the federal government for the purpose of enhancing long-term quality of care and cost containment. Nothing in this section limits the ability of hospitals to develop swing bed programs in accordance with federal regulations.

No hospital that is granted a certificate of need after August 5, 1989, to recategorize hospital beds as skilled nursing beds is subject to sections 3721.01 to 3721.09 of the Revised

Code. If the portion of the hospital in which the recategorized beds are located is certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that portion of the hospital is subject to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of the Revised Code. If the beds are registered pursuant to section 3701.07 of the Revised Code as long-term care beds, the beds are subject to sections 3721.50 to 3721.58 of the Revised Code.

~~(F) The public health council shall adopt rules authorizing the creation of one or more nursing home placement clearinghouses. Any public or private agency or facility may apply to the department of health to serve as a nursing home placement clearinghouse, and the rules shall provide the procedure for application and process for designation of clearinghouses.~~

~~The department may approve one or more clearinghouses, but in no event shall there be more than one nursing home placement clearinghouse in each county. Any nursing home may list with a nursing home placement clearinghouse the services it provides and the types of patients it is approved for and equipped to serve. The clearinghouse shall make reasonable efforts to update its information at least every six months.~~

~~If an appropriate clearinghouse has been designated, each hospital granted a certificate of need after August 5, 1989, to recategorize hospital beds as skilled nursing beds shall, and any other hospital may, utilize the nursing home placement clearinghouse prior to admitting a patient to a skilled nursing bed within the hospital and prior to keeping a patient in a skilled nursing bed within a hospital in excess of thirty days.~~

~~The department shall provide at least annually to all hospitals a list of the designated nursing home placement clearinghouses.~~

Sec. ~~3702.523~~ 3702.522. A person who has an application for a certificate of need pending with the director of health may revise the application to change the site of the proposed project unless either of the following applies:

(A) The director, under section 3702.52 of the Revised Code, has mailed the applicant a written notice that the application is complete.

(B) The application is subject to a comparative review under section 3702.593 of the Revised Code.

The only revision that may be made in the revised application is the site of the proposed project. The revised site of the proposed project must be located in the same county as the site of the proposed project specified in the original application. The director may not accept a revised application if it includes revisions other than the site of the proposed project or if the revised site is located in a different county than the county in which the site specified in the original application is located.

A revised application shall be accompanied by an additional, ~~non-refundable~~ nonrefundable fee equal to twenty-five per cent of the fee charged under section 3702.52 of the Revised Code for the original application. The additional fee shall be deposited into the certificate of need fund created under section 3702.52 of the Revised Code.

On acceptance of a revised application, the director shall continue to review the application as revised in accordance with section 3702.52 of the Revised Code to determine whether it is complete and, if necessary and regardless of whether the director previously made two requests for additional information, may make a final written request to the applicant for additional information not later than thirty days after the date the director accepts the revised application.

Sec. ~~3702.524~~ 3702.523. (A) Except as provided in division (B) of this section, a certificate of need ~~granted on or after April 20, 1995,~~ is not transferable prior to the completion of the reviewable activity for which it was granted. If any person holding a certificate of need ~~issued on or after that date~~ transfers the certificate of need to another person before the reviewable activity is completed, or enters into an agreement that contemplates the transfer of the certificate of need on the completion of the reviewable activity, the certificate of need is void. If the controlling interest in an entity that holds a certificate of need ~~issued on or after that date~~ is transferred prior to the completion of the reviewable activity, the certificate of need is void.

(B) Division (A) of this section does not prohibit the transfer of a certificate of need ~~issued on or after April 20, 1995,~~ between affiliated or related persons, as defined in rules adopted under section 3702.57 of the Revised Code, if the transfer does not result in a change in the person that holds the ultimate controlling interest, as defined in the rules, in the certificate of need.

The transfer of a ~~health~~ long-term care facility after the completion of a reviewable activity for which a certificate of need was issued ~~on or after April 20, 1995,~~ is not a transfer of the certificate of need, unless the facility is transferred pursuant to an agreement entered into prior to the completion of the reviewable activity.

Sec. ~~3702.525~~ 3702.524. (A) Not later than twenty-four months after the date the director of health mails the notice that the certificate of need has been granted or, if the grant or denial of the certificate of need is appealed under section 3702.60 of the Revised Code, not later than twenty-four months after issuance of

an order granting the certificate that is not subject to further appeal, each person holding a certificate of need granted ~~on or after April 20, 1995,~~ shall:

(1) If the project for which the certificate of need was granted primarily involves construction and is to be financed primarily through external borrowing of funds, secure financial commitment for the stated purpose of developing the project and commence construction that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events;

(2) If the project for which the certificate of need was granted primarily involves construction and is to be financed primarily internally, receive formal approval from the holder's board of directors or trustees or other governing authority to commit specified funds for implementation of the project and commence construction that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events;

(3) ~~If the project for which the certificate of need was granted primarily involves acquisition of medical equipment, enter into a contract to purchase or lease the equipment and to accept the equipment at the site for which the certificate was granted;~~

~~(4)~~ If the project for which the certificate of need was granted involves no capital expenditure or only minor renovations to existing structures, provide the ~~health~~ long-term care service ~~or activity~~ by the means specified in the approved application for the certificate;

~~(5)~~(4) If the project for which the certificate of need was granted primarily involves leasing a building or space that

requires only minor renovations to the existing space, execute a lease and provide the ~~health~~ long-term care service ~~or activity~~ by the means specified in the approved application for the certificate;

~~(6)~~(5) If the project for which the certificate of need was granted primarily involves leasing a building or space that has not been constructed or requires substantial renovations to existing space, commence construction for the purpose of implementing the reviewable activity that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events.

(B) The twenty-four-month period specified in division (A) of this section shall not be extended by any means, including the granting of a subsequent or replacement certificate of need. Each person holding a certificate of need ~~granted on or after April 20, 1995,~~ shall provide the director of health documentation of compliance with that division not later than the earlier of thirty days after complying with that division or five days after the twenty-four-month period expires. Not later than the earlier of fifteen days after receiving the documentation or fifteen days after the twenty-four-month period expires, the director shall send by certified mail a notice to the holder of the certificate of need specifying whether the holder has complied with division (A) of this section.

(C) ~~Notwithstanding division (B) of this section, the twenty-four-month period specified in division (A) of this section shall be extended for an additional twenty-four months for any certificate of need granted for the purchase and relocation of licensed nursing home beds on February 26, 1999.~~

~~(D)~~ A certificate of need ~~granted on or after April 20, 1995,~~ expires, regardless of whether the director sends a notice under

division (B) of this section, if the holder fails to comply with division (A) ~~or (C)~~ of this section or to provide information under division (B) of this section as necessary for the director to determine compliance. The determination by the director that a certificate of need has expired is final and not appealable under Chapter 119. of the Revised Code.

Sec. ~~3702.526~~ 3702.525. Every six months after complying with section ~~3702.525~~ 3702.524 of the Revised Code, the holder of the certificate of need shall demonstrate to the director of health, in the form and manner required by rules adopted under section 3702.57 of the Revised Code, that reasonable progress is being made toward the completion of the reviewable activity. If the director determines, in accordance with standards specified in the rules, that reasonable progress is not being made, ~~he~~ the director shall withdraw the certificate of need.

Sec. 3702.526. (A) Except as provided in division (B) of this section, the director of health shall accept an application for a replacement certificate of need for an activity described in division (A)(5) of section 3702.511 of the Revised Code to replace an approved certificate of need for that activity if all of the following conditions are met:

(1) The applicant is the same as the applicant for the approved certificate of need or an affiliated or related person as described in division (B) of section 3702.523 of the Revised Code.

(2) The source of any long-term care beds to be relocated is the same as in the approved certificate of need.

(3) The application for the approved certificate of need was not subject to comparative review under section 3702.593 of the Revised Code.

(B) The director shall not accept an application for a

replacement certificate that proposes to increase the number of long-term care beds to be relocated specified in the application for the approved certificate of need.

(C) For the purpose of determining whether long-term care beds are from an existing long-term care facility, the director shall consider the date of filing of the application for a replacement certificate to be the same as the date of filing of the original application for the approved certificate of need.

(D) Any long-term care beds that were approved in the approved certificate of need remain approved in the application for a replacement certificate.

(E) The applicant shall submit with the application for a replacement certificate a nonrefundable fee equal to the application fee for the approved certificate of need.

(F) Upon approval of the application for a replacement certificate, the original certificate of need is automatically voided.

Sec. 3702.527. A bed described in division (O)(5) of section 3702.51 of the Revised Code may be converted to a bed described in division (O)(1), (2), (3), or (4) of that section only as provided in the certificate of need under which the beds were approved or its replacement certificate of need.

Sec. 3702.53. (A) No person shall carry out any reviewable activity unless a certificate of need for such activity has been granted under sections 3702.51 to 3702.62 of the Revised Code or the person is exempted by division ~~(S)~~(B) of section ~~3702.51~~ 3702.511 or section ~~3702.5210 or~~ 3702.62 of the Revised Code from the requirement that a certificate of need be obtained. No person shall carry out any reviewable activity if a certificate of need authorizing that activity has been withdrawn by the director of

health under section 3702.52 or ~~3702.526~~ 3702.525 of the Revised Code. No person shall carry out a reviewable activity if the certificate of need authorizing that activity is void pursuant to section ~~3702.524~~ 3702.523 of the Revised Code or has expired pursuant to section ~~3702.525~~ 3702.524 of the Revised Code.

(B) No person shall separate portions of any proposal for any reviewable activity to evade the requirements of sections 3702.51 to 3702.62 of the Revised Code.

(C) No person granted a certificate of need shall carry out the reviewable activity authorized by the certificate of need other than in substantial accordance with the approved application for the certificate of need.

Sec. 3702.531. The director of health shall evaluate and may investigate evidence that appears to demonstrate that any person has violated section 3702.53 of the Revised Code. If the director elects to conduct an investigation, ~~he~~ the director shall mail to the alleged violator by certified mail, return receipt requested, a notice that an investigation is underway.

When conducting an investigation under this section, the director may request any relevant information pertaining to the alleged violation, including the total operating cost of the activity in question during the period of the alleged violation and the total capital cost associated with implementation of the activity. A person shall provide information requested by the director not later than forty-five days after receiving the director's request. The director also may issue and enforce, in the manner provided in Chapter 119. of the Revised Code, subpoenas duces tecum to compel the production of documents relevant to the alleged violation. The subpoenas may be served in any manner authorized by the rules of civil procedure.

The director or ~~his~~ the director's designee~~, which may~~

~~include a health service agency,~~ may conduct a site visit to investigate an alleged violation of section 3702.53 of the Revised Code.

Each investigation under this section shall be conducted in a manner that protects patient confidentiality. Names or other identifying information about any patient shall not be made public without the written consent of the patient or ~~his~~ the patient's guardian, or, if the patient is a minor, ~~his~~ the patient's parent or guardian.

Sec. 3702.54. Except as provided in section 3702.541 of the Revised Code, divisions (A) and (B) of this section apply when the director of health determines that a person has violated section 3702.53 of the Revised Code.

(A) The director shall impose a civil penalty on the person in an amount equal to the greatest of the following:

(1) Three thousand dollars;

(2) Five per cent of the operating cost of the activity that constitutes the violation during the period of time it was conducted in violation of section 3702.53 of the Revised Code;

(3) If a certificate of need was granted, two per cent of the total approved capital cost associated with implementation of the activity for which the certificate of need was granted.

In no event, however, shall the penalty exceed two hundred fifty thousand dollars.

(B)(1) Notwithstanding section 3702.52 of the Revised Code, the director shall refuse to accept for review any application for a certificate of need filed by or on behalf of the person, or any successor to the person or entity related to the person, for a period of not less than one year and not more than three years after the director mails the notice of the director's

determination under section 3702.532 of the Revised Code or, if the determination is appealed under section 3702.60 of the Revised Code, the issuance of the order upholding the determination that is not subject to further appeal. In determining the length of time during which applications will not be accepted, the director may consider any of the following:

(a) The nature and magnitude of the violation;

(b) The ability of the person to have averted the violation;

(c) Whether the person disclosed the violation to the director before the director commenced his investigation;

(d) The person's history of compliance with sections 3702.51 to 3702.62 and the rules adopted under section 3702.57 of the Revised Code;

(e) Any community hardship that may result from refusing to accept future applications from the person.

(2) Notwithstanding the one-year minimum imposed by division (B)(1) of this section, the director may establish a period of less than one year during which the director will refuse to accept certificate of need applications if, after reviewing all information available to the director, the director determines and expressly indicates in the notice mailed under section 3702.532 of the Revised Code that refusing to accept applications for a longer period would result in hardship to the community in which the person provides ~~health~~ long-term care services. The director's finding of community hardship shall not affect the granting or denial of any future certificate of need application filed by the person.

Sec. 3702.55. A person that the director of health determines has violated section 3702.53 of the Revised Code shall cease conducting the activity that constitutes the violation or

utilizing the ~~equipment or~~ facility resulting from the violation not later than thirty days after the person receives the notice mailed under section 3702.532 of the Revised Code or, if the person appeals the director's determination under section 3702.60 of the Revised Code, thirty days after the person receives an order upholding the director's determination that is not subject to further appeal.

If any person determined to have violated section 3702.53 of the Revised Code fails to cease conducting an activity or using ~~equipment or~~ a facility as required by this section or if the person continues to seek payment or reimbursement for services rendered or costs incurred in conducting the activity as prohibited by section 3702.56 of the Revised Code, in addition to the penalties imposed under section 3702.54 or 3702.541 of the Revised Code:

(A) The director of health may refuse to include any beds involved in the activity in the bed capacity of a hospital for purposes of registration under section 3701.07 of the Revised Code;

(B) The director of health may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a hospice care program under section 3712.04 of the Revised Code; a nursing home, ~~rest home~~ residential care facility, or home for the aging under section 3721.02 of the Revised Code; or any beds within any of those facilities that are involved in the activity;

(C) A political subdivision certified under section 3721.09 of the Revised Code may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a nursing home, ~~rest home~~ residential care facility, or home for the aging, or any beds within any of those facilities that are involved in the activity;

(D) The director of mental health may refuse to license under

section 5119.20 of the Revised Code, or may revoke a license or reduce bed capacity previously granted to, a hospital receiving mentally ill persons or beds within such a hospital that are involved in the activity;

(E) The department of job and family services may refuse to enter into a provider agreement that includes a facility, beds, or services that result from the activity.

Sec. 3702.56. No third-party payer or other person ~~or government entity~~ is required to pay, and no person shall seek or accept payment or reimbursement for, any service rendered or costs incurred in conducting an activity during the period of time in which the activity was conducted in violation of section 3702.53 of the Revised Code. Each person that accepts any amount in violation of this division shall refund that amount on request of the person ~~or government entity~~ that paid it.

Sec. 3702.57. (A) The ~~public~~ director of health ~~council~~ shall adopt rules establishing procedures and criteria for reviews of applications for certificates of need and issuance, denial, or withdrawal of certificates.

(1) In adopting rules that establish criteria for reviews of applications of certificates of need, the ~~council~~ director shall consider the availability of and need for long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries and shall prescribe criteria for reviewing applications that propose to add long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries.

(2) The criteria for reviews of applications for certificates of need shall relate to the need for the reviewable activity and shall pertain to all of the following matters:

(a) The impact of the reviewable activity on the cost and quality of ~~health~~ long-term care services in the relevant ~~geographic~~ service area, including, but not limited, to the historical and projected utilization of the services to which the application pertains and the effect of the reviewable activity on utilization of other providers of similar services;

(b) The quality of the services to be provided as the result of the activity, as evidenced by the historical performance of the persons that will be involved in providing the services and by the provisions that are proposed in the application to ensure quality, including but not limited to adequate available personnel, available ancillary and support services, available equipment, size and configuration of physical plant, and relations with other providers;

(c) The impact of the reviewable activity on the availability and accessibility of the type of services proposed in the application to the population of the relevant ~~geographic~~ service area, and the level of access to the services proposed in the application that will be provided to medically underserved individuals such as recipients of public assistance and individuals who have no health insurance or whose health insurance is insufficient;

(d) The activity's short- and long-term financial feasibility and cost-effectiveness, the impact of the activity on the applicant's costs and charges, and a comparison of the applicant's costs and charges with those of providers of similar services in the applicant's proposed service area;

(e) The advantages, disadvantages, and costs of alternatives to the reviewable activity;

(f) The impact of the activity on all other providers of similar services in the ~~health service area or other~~ relevant

~~geographic~~ service area, including the impact on their utilization, market share, and financial status;

(g) The historical performance of the applicant and related or affiliated parties in complying with previously granted certificates of need and any applicable certification, accreditation, or licensure requirements;

(h) ~~The relationship of the activity to the current edition of the state health resources plan issued under section 3702.521 of the Revised Code;~~

~~(i)~~ The historical performance of the applicant and related or affiliated parties in providing cost-effective ~~health~~ long-term care services;

~~(j)~~(i) The special needs and circumstances of the applicant or population proposed to be served by the proposed project, including research activities, prevalence of particular diseases, unusual demographic characteristics, cost-effective contractual affiliations, and other special circumstances;

~~(k)~~(j) The appropriateness of the zoning status of the proposed site of the activity;

~~(l)~~(k) The participation by the applicant in research conducted by the United States food and drug administration or clinical trials sponsored by the national institutes of health.

(3) The criteria for reviews of applications shall include a formula for determining each county's long-term care bed need for purposes of section 3702.593 of the Revised Code and may include other formulas for determining need for beds.

Any rules prescribing criteria that establish ratios of beds to population shall specify the bases for establishing the ratios or mitigating factors or exceptions to the ratios.

(B) The ~~council~~ director shall adopt rules specifying all of

the following:

(1) Information that must be provided in applications for certificates of need;

(2) Procedures for reviewing applications for completeness of information;

(3) Criteria for determining that the application is complete.

(C) The ~~council~~ director shall adopt rules specifying requirements that holders of certificates of need must meet in order for the certificates to remain valid and establishing definitions and requirements for obligation of capital expenditures and implementation of projects authorized by certificates of need.

(D) The ~~council~~ director shall adopt rules establishing criteria and procedures under which the director of health may withdraw a certificate of need if the holder fails to meet requirements for continued validity of the certificate.

(E) The ~~council~~ director shall adopt rules establishing procedures under which the department of health shall monitor project implementation activities of holders of certificates of need. The rules adopted under this division also may establish procedures for monitoring implementation activities of persons that have received nonreviewability rulings.

(F) The ~~council~~ director shall adopt rules establishing procedures under which the director of health shall review certificates of need whose holders exceed or appear likely to exceed an expenditure maximum specified in a certificate.

(G) The ~~council~~ director shall adopt rules establishing certificate of need application fees sufficient to pay the costs incurred by the department for administering sections 3702.51 to

3702.62 of the Revised Code ~~and to pay health service agencies for the functions they perform under division (D)(5) of section 3702.58 of the Revised Code~~. Unless rules are adopted under this division establishing different application fees, the application fee for a project not involving a capital expenditure shall be three thousand dollars and the application fee for a project involving a capital expenditure shall be nine-tenths of one per cent of the capital expenditure proposed subject to a minimum of three thousand dollars and a maximum of twenty thousand dollars.

(H) The ~~council~~ director shall adopt rules specifying information that is necessary to conduct reviews of certificate of need applications and to develop ~~recommendations for~~ criteria for reviews that ~~health~~ long-term care facilities ~~and other health care providers~~ are to submit to the director under division ~~(G)~~(H) of section 3702.52 of the Revised Code.

(I) The ~~council~~ director shall adopt rules defining "affiliated person," "related person," and "ultimate controlling interest" for purposes of section ~~3702.524~~ 3702.523 of the Revised Code.

(J) The ~~council~~ director shall adopt rules prescribing requirements for holders of certificates of need to demonstrate to the director under section ~~3702.526~~ 3702.525 of the Revised Code that reasonable progress is being made toward completion of the reviewable activity and establishing standards by which the director shall determine whether reasonable progress is being made.

(K) The ~~public health council~~ director shall adopt all rules under divisions (A) to (J) of this section in accordance with Chapter 119. of the Revised Code. The ~~council~~ director may adopt other rules as necessary to carry out the purposes of sections 3702.51 to 3702.62 of the Revised Code.

Sec. 3702.59. (A) The director of health shall accept for review certificate of need applications as provided in sections 3702.592, 3702.593, and 3702.594 of the Revised Code.

(B)(1) The director shall not approve an application for a certificate of need for the addition of long-term care beds to an existing ~~health~~ long-term care facility or for the development of a new ~~health~~ long-term care facility if any of the following apply:

(a) The existing ~~health~~ long-term care facility in which the beds are being placed has one or more waivers for life safety code deficiencies, one or more state fire code violations, or one or more state building code violations, and the project identified in the application does not propose to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing ~~health~~ long-term care facility in which the beds are being placed;

(b) During the sixty-month period preceding the filing of the application, a notice of proposed license revocation was issued under section 3721.03 of the Revised Code for the existing ~~health~~ long-term care facility in which the beds are being placed or a nursing home owned or operated by the applicant or a principal participant.

(c) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing ~~health~~ long-term care facility in which the beds are being placed, any of the following occurred:

(i) The facility was cited on three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies.

(ii) The facility was cited on two or more separate occasions for final, nonappealable immediate jeopardy deficiencies.

(iii) The facility was cited on two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(d) More than two nursing homes owned or operated in this state by the applicant or a principal participant or, if the applicant or a principal participant owns or operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited during the period that precedes the filing of the application for the certificate of need and is encompassed by the three most recent standard surveys of the nursing homes that were so cited in any of the following manners:

(i) On three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies;

(ii) On two or more separate occasions for final, nonappealable immediate jeopardy deficiencies;

(iii) On two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(2) In applying divisions (B)(1)(a) to (d) of this section, the director shall not consider deficiencies or violations cited before the applicant or a principal participant acquired or began to own or operate the ~~health~~ long-term care facility at which the deficiencies or violations were cited. The director may disregard deficiencies and violations cited after the ~~health~~ long-term care facility was acquired or began to be operated by the applicant or a principal participant if the deficiencies or violations were attributable to circumstances that arose under the previous owner

or operator and the applicant or principal participant has implemented measures to alleviate the circumstances. In the case of an application proposing development of a new ~~health~~ long-term care facility by relocation of beds, the director shall not consider deficiencies or violations that were solely attributable to the physical plant of the existing ~~health~~ long-term care facility from which the beds are being relocated.

(C) The director also shall accept for review any application for the conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

(1) Is operated exclusively by a religious order;

(2) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related;

(3) Was providing care exclusively to members of such a religious order on January 1, 1994.

(D) Notwithstanding division (C)(2) of this section, a facility that has been granted a certificate of need under division (C) of this section may provide care to any of the following family members of the individuals described in division (C)(2) of this section: mothers, fathers, brothers, sisters, brothers-in-law, sisters-in-law, or children.

The long-term care beds in a facility that have been granted a certificate of need under division (C) of this section may not be relocated pursuant to sections 3702.592 to 3702.594 of the Revised Code.

Sec. 3702.592. (A) The director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for any of the following purposes if the proposed increase in beds is attributable ~~solely~~ to a replacement

or relocation of existing beds from an existing ~~health~~ long-term care facility within the same county:

(1) Approval of beds in a new ~~health~~ long-term care facility or an increase of beds in an existing ~~health~~ long-term care facility if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(2) Approval of beds in a new county home or new county nursing home, or an increase of beds in an existing county home or existing county nursing home if the beds are proposed to be certified as skilled nursing facility beds under the medicare program, Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under the medicaid program, Title XIX of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended;

(3) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds;

(4) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as special skilled nursing beds that were originally authorized by and are operated in accordance with section ~~3702.522~~ 3702.521 of the Revised Code.

(B) The director shall accept applications described in division (A) of this section at any time.

Sec. 3702.593. (A) At the times specified in this section, the director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for any of the following purposes if the proposed increase in beds is attributable solely to relocation of existing beds from an existing ~~health~~ long-term care facility in a county with excess beds to a ~~health~~ long-term care facility in a county in which there are fewer long-term care beds than the county's bed need:

(1) Approval of beds in a new ~~health~~ long-term care facility or an increase of beds in an existing ~~health~~ long-term care facility if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(2) Approval of beds in a new county home or new county nursing home, or an increase of beds in an existing county home or existing county nursing home if the beds are proposed to be certified as skilled nursing facility beds under the medicare program, Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under the medicaid program, Title XIX of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended;

(3) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds.

(B) For the purpose of implementing this section, the director shall do all of the following:

(1) ~~Determine~~ Not later than April 1, 2012, and every four years thereafter, determine the long-term care bed supply for each county, which shall consist of all of the following:

(a) Nursing home beds licensed under Chapter 3721. of the Revised Code;

(b) Beds certified as skilled nursing facility beds under the medicare program or nursing facility beds under the medicaid program;

(c) Beds in any portion of a hospital that are properly registered under section 3701.07 of the Revised Code as skilled nursing beds, long-term care beds, or special skilled nursing beds;

(d) Beds in a county home or county nursing home that are certified under section 5155.38 of the Revised Code as having been

in operation on July 1, 1993, and are eligible for licensure as nursing home beds;

~~(d)~~(e) Beds ~~held as approved long-term care beds under a certificate of need approved by the director~~ described in division (O)(5) of section 3702.51 of the Revised Code.

(2) Determine the long-term care bed occupancy rate for the state at the time the determination is made;

(3) For each county, determine the county's bed need by identifying the number of long-term care beds that would be needed in the county in order for the statewide occupancy rate for a projected population aged sixty-five and older to be ninety per cent.

In determining each county's bed need, the director shall use the formula developed in rules adopted under section 3702.57 of the Revised Code. ~~The director's first determination after the effective date of this section shall be made not later than April 1, 2010. The second determination shall be made not later than April 1, 2012. Thereafter, a~~ A determination shall be made every four years. After each determination is made, the director shall publish the county's bed need on the web site maintained by the department of health.

(C) The director's consideration of a certificate of need that would increase the number of beds in a county shall be consistent with the county's bed need determined under division (B) of this section except as follows:

(1) If a county's occupancy rate is less than eighty-five per cent, the county shall be considered to have no need for additional beds.

(2) Even if a county is determined not to need any additional long-term care beds, the director may approve an increase in beds equal to up to ten per cent of the county's bed supply if the

county's occupancy rate is greater than ninety per cent.

(D)(1) ~~Applications made under this section shall be subject to comparative review.~~ The review period for the first ~~comparative~~ review process ~~after the effective date of this section~~ shall begin July 1, 2010, and end June 30, 2012. The next review period shall begin July 1, 2012, and end June 30, 2016. Thereafter, the review period for each comparative review process shall begin on the first day of July following the end of the previous review period and shall be four years.

(2) Certificate of need applications shall be accepted during the first month of the review period and reviewed ~~from the first day of the review period~~ through the thirtieth day of April of the following year.

(3) Except for the first review period after ~~the effective date of this section~~ October 16, 2009, each review period may consist of two phases. The first phase of the review period shall be the period during which the director accepts and reviews certificate of need applications as provided in division (D)(2) of this section. If the director determines that there will be acceptance and review of additional certificate of need applications, the second phase of the review period shall begin on the first day of July of the third year of the review period. The second phase shall be limited to acceptance and review of applications for redistribution of beds made available pursuant to division ~~(G)(2)~~(I) of this section. During the period between the first and second phases of the review period, the director shall act in accordance with division ~~(H)~~(I) of this section.

(E) The director shall consider certificate of need applications in accordance with all of the following:

(1) The number of beds approved for a county shall include only beds available for relocation from another county and shall

not exceed the bed need of the receiving county;

(2) The director shall consider the existence of community resources serving persons who are age sixty-five or older or disabled that are demonstrably effective in providing alternatives to long-term care facility placement.

(3) The director shall approve relocation of beds from a county only if, after the relocation, the number of beds remaining in the county will exceed the county's bed need by at least one hundred beds;

(4) The director shall approve relocation of beds from a ~~health~~ long-term care facility only if, after the relocation, the number of beds in the facility's service area is at least equal to the state bed need rate. For purposes of this division, a facility's service area shall be either of the following:

(a) The census tract in which the facility is located, if the facility is located in an area designated by the United States secretary of health and human services as a health professional shortage area under the "Public Health Service Act," 88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended;

(b) The area that is within a fifteen-mile radius of the facility's location, if the facility is not located in a health professional shortage area.

(F) Applications made under this section are subject to comparative review if two or more applications are submitted during the same review period and any of the following applies:

(1) The applications propose to relocate beds from the same county and the number of beds for which certificates of need are being requested totals more than the number of beds available in the county from which the beds are to be relocated.

(2) The applications propose to relocate beds to the same

county and the number of beds for which certificates of need are being requested totals more than the number of beds needed in the county to which the beds are to be relocated.

(3) The applications propose to relocate beds from the same service area and the number of beds left in the service area from which the beds are being relocated would be less than the state bed need rate determined by the director.

(G) In determining which applicants should receive preference in the comparative review process, the director shall consider all of the following as weighted priorities:

(1) Whether the beds will be part of a continuing care retirement community;

(2) Whether the beds will serve an underserved population, such as low-income individuals, individuals with disabilities, or individuals who are members of racial or ethnic minority groups;

(3) Whether the project in which the beds will be included will provide alternatives to institutional care, such as adult day-care, home health care, respite or hospice care, mobile meals, residential care, independent living, or congregate living services;

(4) Whether the ~~health~~ long-term care facility's owner or operator will participate in medicaid waiver programs for alternatives to institutional care;

(5) Whether the project in which the beds will be included will reduce alternatives to institutional care by converting residential care beds or other alternative care beds to long-term care beds;

(6) Whether the facility in which the beds will be placed has positive resident and family satisfaction surveys;

(7) Whether the facility in which the beds will be placed has

fewer than fifty long-term care beds;

(8) Whether the ~~health~~ long-term care facility in which the beds will be placed is located within the service area of a hospital and is designed to accept patients for rehabilitation after an in-patient hospital stay;

(9) Whether the ~~health~~ long-term care facility in which the beds will be placed is or proposes to become a nurse aide training and testing site;

(10) The rating, under the centers for medicare and medicaid services' five star nursing home quality rating system, of the ~~health~~ long-term care facility in which the beds will be placed.

~~(G)(1) When a certificate of need application is approved during the initial phase of a four-year review period, on completion of the project under which the beds are relocated, that number of beds shall cease to be operated in the health care facility from which they were relocated and, if the licensure or certification of those beds cannot be or is not transferred to the facility to which the beds are relocated, the licensure or certification shall be surrendered.~~

~~(2) In~~ (H) A person who has submitted an application under this section that is not subject to comparative review may revise the site of the proposed project pursuant to section 3702.522 of the Revised Code.

(I) When a certificate of need application is approved during the initial phase of a four-year review period, in addition to the actions required by division ~~(G)(1)~~(D) of ~~this~~ section 3702.52 of the Revised Code, the ~~health~~ long-term care facility from which the beds were relocated shall reduce the number of beds operated in the facility by a number of beds equal to at least ten per cent of the number of beds relocated ~~and shall surrender the licensure or certification of those beds~~. If these beds are in a home

licensed under Chapter 3721. of the Revised Code, the long-term care facility shall have the beds removed from the license. If the beds are in a facility that is certified as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," the facility shall surrender the certification of these beds. If the beds are registered as skilled nursing beds or long-term care beds under section 3701.07 of the Revised Code, the long-term care facility shall surrender the registration for these beds. This reduction shall be made not later than the completion date of the project for which the beds were relocated.

~~(H)~~(J)(1) Once approval of certificate of need applications in the first phase of a four-year review period is complete, the director shall make a new determination of the bed need for each county by reducing the county's bed need by the number of beds approved for relocation to the county. The new bed-need determination shall be made not later than the first day of April of the third year of the review period.

(2) The director may publish on the department's web site the remaining bed need for counties that will be considered for redistribution of beds that, in accordance with division ~~(G)(2)~~(I) of this section, have ceased or will cease to be operated. The director shall base the determination of whether to include a county on all of the following:

(a) The statewide number of beds that, in accordance with division ~~(G)(2)~~(I) of this section, have ceased or will cease to be operated;

(b) The county's remaining bed need;

(c) The county's bed occupancy rate.

~~(I)~~(K) If the director publishes the remaining bed need for a county under division ~~(H)~~(J)(2) of this section, the director may,

beginning on the first day of the second phase of the review period, accept certificate of need applications for redistribution to ~~health~~ long-term care facilities in that county of beds that have ceased or will cease operation in accordance with division ~~(G)(2)~~(I) of this section. The total number of beds approved for redistribution in the second phase of a review period shall not exceed the number that have ceased or will cease operation in accordance with division ~~(G)(2)~~(I) of this section. Beds that are not approved for redistribution during the second phase of a review period shall not be available for redistribution at any future time.

Sec. 3702.594. (A) The director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for an increase in beds in an existing nursing home if all of the following conditions are met:

(1) The proposed increase is attributable solely to a relocation of licensed nursing home beds from an existing nursing home to another existing nursing home located in a county that is contiguous to the county from which the beds are to be relocated;

(2) Not more than a total of thirty nursing home beds are proposed for relocation to the same existing nursing home regardless of the number of applications filed. Once the cumulative total of beds relocated under this section to a nursing home reaches thirty, no further applications under this section will be accepted until the period of monitoring specified in division (E) of section 3702.52 of the Revised Code of the most recent reviewable activity implemented under this section has expired;

(3) After the proposed relocation, there will be existing nursing home beds remaining in the county from which the beds are relocated;

(4) The beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code.

(B) The director shall accept applications described in division (A) of this section at any time.

Sec. 3702.60. (A) Any affected person may appeal a reviewability ruling ~~issued on or after April 20, 1995,~~ to the director of health in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. An affected person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(B) The certificate of need applicant or another affected person may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director ~~on or after April 20, 1995,~~ to grant or deny a certificate of need application ~~for which an adjudication hearing was not conducted under section 3702.52 of the Revised Code~~, and the director shall provide an adjudication hearing in accordance with that chapter. The certificate of need applicant or other affected person that appeals the director's decision to grant or deny a certificate of need application must prove by a preponderance of the evidence that the director's decision is not in accordance with sections 3702.52 to 3702.62 of the Revised Code or rules adopted under those sections. The certificate of need applicant or an affected person that was a party to and participated in an adjudication hearing conducted under this division ~~or section 3702.52 of the Revised Code~~ may appeal to the tenth district court of appeals the decision issued by the director following the adjudication hearing. ~~No person may appeal to the director or a court the director's granting of a certificate of need prior to June 30, 1995, under the version of section 3702.52 of the Revised Code in~~

~~effect immediately prior to that date due to failure to submit timely written objections, no person may appeal to the director or a court the director's granting of a certificate of need under division (C)(1) of section 3702.52 of the Revised Code.~~

(C) The certificate of need holder may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director under section 3702.52 or ~~3702.526~~ 3702.525 of the Revised Code ~~on or after April 20, 1995,~~ to withdraw a certificate of need, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(D) Any person determined by the director to have violated section 3702.53 of the Revised Code may appeal that determination, or the penalties imposed under section 3702.54 or 3702.541 of the Revised Code, to the director in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(E) Each person appealing under this section to the director shall file with the director, not later than thirty days after the decision, ruling, or determination of the director was mailed, a notice of appeal designating the decision, ruling, or determination appealed from.

(F) Each person appealing under this section to the tenth district court of appeals shall file with the court, not later than thirty days after the date the director's adjudication order was mailed, a notice of appeal designating the order appealed from. The appellant also shall file notice with the director not later than thirty days after the date the order was mailed.

(1) Not later than thirty days after receipt of the notice of appeal, the director shall prepare and certify to the court the complete record of the proceedings out of which the appeal arises. The expense of preparing and transcribing the record shall be taxed as part of the costs of the appeal. In the event that the record or a part thereof is not certified within the time prescribed by this division, the appellant may apply to the court for an order that the record be certified.

(2) In hearing the appeal, the court shall consider only the evidence contained in the record certified to it by the director. The court may remand the matter to the director for the admission of additional evidence on a finding that the additional evidence is material, newly discovered, and could not with reasonable diligence have been ascertained before the hearing before the director. Except as otherwise provided by statute, the court shall give the hearing on the appeal preference over all other civil matters, irrespective of the position of the proceedings on the calendar of the court.

(3) The court shall affirm the director's order if it finds, upon consideration of the entire record and any additional evidence admitted under division (F)(2) of this section, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order.

(4) If the court determines that the director committed material procedural error, the court shall remand the matter to the director for further consideration or action.

(G) The court may award reasonable attorney's fees against the appellant if it determines that the appeal was frivolous. Sections 119.092, 119.093, and 2335.39 of the Revised Code do not apply to adjudication hearings under this section or section 3702.52 of the Revised Code and judicial appeals under this

section.

(H) No person may intervene in an appeal brought under this section.

Sec. 3702.62. ~~(A) Any action pursuant to section 140.03, 140.04, 140.05, 307.091, 313.21, 339.01, 339.021, 339.03, 339.06, 339.08, 339.09, 339.12, 339.14, 513.05, 513.07, 513.08, 513.081, 513.12, 513.15, 513.17, 513.171, 749.02, 749.03, 749.14, 749.16, 749.20, 749.25, 749.28, 749.35, 1751.06, or 3707.29 of the Revised Code shall be taken in accordance with sections 3702.51 to 3702.61 of the Revised Code.~~

~~(B) A nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that is required to apply for licensure as a residential facility under section 5123.19 of the Revised Code is not, with respect to the portion of the home certified as an intermediate care facility for the mentally retarded, subject to sections~~ Sections 3702.51 to 3702.61 of the Revised Code do not apply to any part of long-term care facility's campus that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 343 (1965), 42 U.S.C. 1396 et seq., as amended.

Sec. 3703.01. (A) Except as otherwise provided in this section, the division of ~~labor~~ industrial compliance in the department of commerce shall do all of the following:

(1) Inspect all nonresidential buildings within the meaning of section 3781.06 of the Revised Code;

(2) Condemn all unsanitary or defective plumbing that is found in connection with those places;

(3) Order changes in plumbing necessary to insure the safety

of the public health.

(B)(1)(a) The division of ~~labor~~ industrial compliance, boards of health of city and general health districts, and county building departments shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any municipal corporation that is certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority for plumbing in those types of buildings.

(b) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district that employs one or more plumbing inspectors certified pursuant to division (D) of this section to enforce Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters relating to plumbing in those types of buildings.

(c) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district where the county building department is authorized to inspect those types of buildings pursuant to a contract described in division (C)(1) of this section.

(d) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district where the board of health has entered into a contract with the board of health of another district to conduct inspections pursuant to division (C)(2) of this section.

(2) No county building department shall inspect plumbing or collect fees for inspecting plumbing in any type of building in a health district unless the department is authorized to inspect that type of building pursuant to a contract described in division (C)(1) of this section.

(3) No municipal corporation shall inspect plumbing or

collect fees for inspecting plumbing in types of buildings for which it is not certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority.

(4) No board of health of a health district shall inspect plumbing or collect fees for inspecting plumbing in types of buildings for which it does not have a plumbing inspector certified pursuant to division (D) of this section.

(C)(1) The board of health of a health district may enter into a contract with a board of county commissioners to authorize the county building department to inspect plumbing in buildings within the health district. The contract may designate that the department inspect either residential or nonresidential buildings, as those terms are defined in section 3781.06 of the Revised Code, or both types of buildings, so long as the department employs or contracts with a plumbing inspector certified pursuant to division (D) of this section to inspect the types of buildings the contract designates. The board of health may enter into a contract regardless of whether the health district employs any certified plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code.

(2) The board of health of a health district, regardless of whether it employs any certified plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code, may enter into a contract with the board of health of another health district to authorize that board to inspect plumbing in buildings within the contracting board's district. The contract may designate the inspection of either residential or nonresidential buildings as defined in section 3781.06 of the Revised Code, or both types of buildings, so long as the board that performs the inspections employs a plumbing inspector certified pursuant to division (D) of this section to inspect the types of buildings the contract

designates.

(D) The superintendent of ~~labor~~ industrial compliance shall adopt rules prescribing minimum qualifications based on education, training, experience, or demonstrated ability, that the superintendent shall use in certifying or recertifying plumbing inspectors to do plumbing inspections for health districts and county building departments that are authorized to perform inspections pursuant to a contract under division (C)(1) of this section, and for continuing education of plumbing inspectors. Those minimum qualifications shall be related to the types of buildings for which a person seeks certification.

(E) The superintendent may enter into reciprocal registration, licensure, or certification agreements with other states and other agencies of this state relative to plumbing inspectors if both of the following apply:

(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (D) of this section for certifying plumbing inspectors.

(2) The other state or agency extends similar reciprocity to persons certified under this chapter.

(F) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to comply with division (F)(1) of this section;

(3) Charge each applicant a fee for administering the

examination in an amount the superintendent authorizes;

(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing.

(G) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters.

(H) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health.

Sec. 3703.03. In the administration of sections 3703.01 to 3703.08 of the Revised Code, the division of ~~labor~~ industrial compliance shall enforce rules governing plumbing adopted by the board of building standards under authority of sections 3781.10 and 3781.11 of the Revised Code, and register those persons engaged in or at the plumbing business.

Plans and specifications for all plumbing to be installed in or for buildings coming within such sections shall be submitted to and approved by the division before the contract for plumbing is let.

Sec. 3703.04. The superintendent of ~~labor~~ industrial compliance shall appoint such number of plumbing inspectors as is required. The inspectors shall be practical plumbers with at least seven years' experience, and skilled and well-trained in matters pertaining to sanitary regulations concerning plumbing work.

Sec. 3703.05. Plumbing inspectors employed by the division of ~~labor~~ industrial compliance assigned to the enforcement of

sections 3703.01 to 3703.08 of the Revised Code may, between sunrise and sunset, enter any building where there is good and sufficient reason to believe that the sanitary condition of the premises endangers the public health, for the purpose of making an inspection to ascertain the condition of the premises.

Sec. 3703.06. When any building is found to be in a sanitary condition or when changes which are ordered, under authority of this chapter, in the plumbing, drainage, or ventilation have been made, and after a thorough inspection and approval by the superintendent of ~~labor~~ industrial compliance, the superintendent shall issue a certificate, which shall be posted in a conspicuous place for the benefit of the public at large. Upon notification by the superintendent, the certificate shall be revoked for any violation of those sections.

Sec. 3703.07. No plumbing work shall be done in any building or place coming within the jurisdiction of the division of ~~labor~~ industrial compliance, except in cases of repairs or leaks in existing plumbing, until a permit has been issued by the division.

Before granting such permit, an application shall be made by the owner of the property or by the person, firm, or corporation which is to do the work. The application shall be made on a form prepared by the division for the purpose, and each application shall be accompanied by a fee of twenty-seven dollars, and an additional fee of seven dollars for each trap, vented fixture, appliance, or device. Each application also shall be accompanied by a plan approval fee of eighteen dollars for work containing one through twenty fixtures; thirty-six dollars for work containing twenty-one through forty fixtures; and fifty-four dollars for work containing forty-one or more fixtures.

Whenever a reinspection is made necessary by the failure of

the applicant or plumbing contractor to have the work ready for inspection when so reported, or by reason of faulty or improper installation, the person shall pay a fee of forty-five dollars for each reinspection.

All fees collected pursuant to this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

The superintendent of ~~labor~~ industrial compliance, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the fees required by this section and may establish fees to pay the costs of the division to fulfill its duties established by this chapter, including, but not limited to, fees for administering a program for continuing education for, and certifying and recertifying plumbing inspectors. The fees shall bear some reasonable relationship to the cost of administering and enforcing the provisions of this chapter.

Sec. 3703.08. Any owner, agent, or manager of a building in which an inspection is made by the division of ~~labor~~ industrial compliance, a board of health of a health district, or a certified department of building inspection of a municipal corporation or a county shall have the entire system of drainage and ventilation repaired, as the division, board of health, or department of building inspection directs by its order. After due notice to repair that work is given, the owner, agent, or manager shall notify the public authority that issued the order when the work is ready for its inspection. No person shall fail to have the work ready for inspection at the time specified in the notice.

Sec. 3703.10. All prosecutions and proceedings by the division of ~~labor~~ industrial compliance for the violation of

sections 3703.01 to 3703.08 of the Revised Code, or for the violation of any of the orders or rules of the division under those sections, shall be instituted by the superintendent of ~~labor~~ industrial compliance. All fines or judgments collected by the division shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created by section 121.084 of the Revised Code.

The superintendent, the board of health of a general or city health district, or any person charged with enforcing the rules of the division adopted under sections 3703.01 to 3703.08 of the Revised Code may petition the court of common pleas for injunctive or other appropriate relief requiring any person violating a rule adopted or order issued by the superintendent under those sections to comply with the rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant injunctive or other appropriate relief.

The superintendent may do all of the following:

(A) Deny an applicant certification as a plumbing inspector;

(B) Suspend or revoke the certification of a plumbing inspector;

(C) Examine any certified plumbing inspector under oath;

(D) Examine the records and books of any certified plumbing inspector if the superintendent finds the material to be examined relevant to a determination described in division (A), (B), or (C) of this section.

Sec. 3703.21. (A) Within ninety days after September 16, 2004, the superintendent of ~~labor~~ industrial compliance shall appoint a backflow advisory board consisting of not more than ten members, who shall serve at the pleasure of the superintendent. The superintendent shall appoint a representative from the

plumbing section of the division of ~~labor~~ industrial compliance, three representatives recommended by the plumbing administrator of the division of ~~labor~~ industrial compliance, a representative of the drinking water program of the Ohio environmental protection agency, three representatives recommended by the director of environmental protection, and not more than two members who are not employed by the plumbing or water industry.

The board shall advise the superintendent on matters pertaining to the training and certification of backflow technicians.

(B) The superintendent shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the certification of backflow technicians. The rules shall establish all of the following requirements, specifications, and procedures:

(1) Requirements and procedures for the initial certification of backflow technicians, including eligibility criteria and application requirements and fees;

(2) Specifications concerning and procedures for taking examinations required for certification as a backflow technician, including eligibility criteria to take the examination and application requirements and fees for taking the examination;

(3) Specifications concerning and procedures for renewing a certification as a backflow technician, including eligibility criteria, application requirements, and fees for renewal;

(4) Specifications concerning and procedures for both of the following:

(a) Approval of training agencies authorized to teach required courses to candidates for certification as backflow technicians or continuing education courses to certified backflow technicians;

(b) Renewal of the approval described in division (B)(4)(a) of this section.

(5) Education requirements that candidates for initial certification as backflow technicians must satisfy and continuing education requirements that certified backflow technicians must satisfy;

(6) Grounds and procedures for denying, suspending, or revoking certification, or denying the renewal of certification, as a backflow technician;

(7) Procedures for issuing administrative orders for the remedy of any violation of this section or any rule adopted pursuant to division (B) of this section, including, but not limited to, procedures for assessing a civil penalty authorized under division (D) of this section;

(8) Any provision the superintendent determines is necessary to administer or enforce this section.

(C) No individual shall engage in the installation, testing, or repair of any isolation backflow prevention device unless that individual possesses a valid certification as a backflow technician. This division does not apply with respect to the installation, testing, or repair of any containment backflow prevention device.

(D) Whoever violates division (C) of this section or any rule adopted pursuant to division (B) of this section shall pay a civil penalty of not more than five thousand dollars for each day that the violation continues. The superintendent may, by order, assess a civil penalty under this division, or may request the attorney general to bring a civil action to impose the civil penalty in the court of common pleas of the county in which the violation occurred or where the violator resides.

(E) Any action taken under a rule adopted pursuant to

division (B)(6) of this section is subject to the appeal process of Chapter 119. of the Revised Code. An administrative order issued pursuant to rules adopted under division (B)(7) of this section and an appeal to that type of administrative order shall be executed in accordance with Chapter 119. of the Revised Code.

(F) As used in this section:

(1) "Isolation backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is regulated by the building code adopted pursuant to section 3781.10 of the Revised Code and rules adopted pursuant to this section.

(2) "Containment backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is installed by the supplier of, or as a requirement of, any public water system as defined in division (A) of section 6109.01 of the Revised Code.

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.08 of the Revised Code, or any rule the division of ~~labor~~ industrial compliance is required to enforce under such sections, shall be fined not less than ten nor more than one hundred dollars or imprisoned for not less than ten nor more than ninety days, or both. No person shall be imprisoned under this section for the first offense, and the prosecution always shall be as for a first offense unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense.

Sec. 3704.035. (A) There is hereby created in the state treasury the Title V clean air fund. Except as otherwise provided in division (K) of section 3745.11 of the Revised Code, all moneys collected under ~~divisions (C), (D), (F), (G), (H), (I), and (J)~~

division (B) of that section ~~and under section 3745.111 of the Revised Code~~, and any gifts, grants, or contributions received by the director of environmental protection for the purposes of the fund, shall be credited to the fund. ~~The director shall expend moneys from the fund exclusively to pay the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air pollution and rules adopted and terms and conditions of permits, variances, and orders issued under those laws, except that the director shall not expend moneys credited to the fund for the administration and enforcement of motor vehicle inspection and maintenance programs and requirements under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 of the Revised Code.~~

~~Specifically, the~~ The director shall expend all moneys credited to the fund ~~from fees assessed under section 3745.11 of the Revised Code pursuant to the Title V permit program established under section 3704.036 of the Revised Code, and from any gifts, grants, or contributions received for the purposes of that program,~~ solely to administer and enforce ~~that~~ the Title V program pursuant to the federal Clean Air Act, this chapter, and rules adopted under it, except as costs relating to enforcement are limited by the federal Clean Air Act. The director shall establish separate and distinct accounting for all such moneys.

(B) There is hereby created in the state treasury the non-Title V clean air fund. All money collected under divisions (D), (F), (G), (H), (I), and (J) of section 3745.11 of the Revised Code shall be credited to the fund. In addition, any gifts, grants, or contributions received by the director for the purposes of the fund shall be credited to the fund.

The director shall expend money in the fund exclusively to pay the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air

pollution, rules adopted under those laws, and terms and conditions of permits, variances, and orders issued under those laws. However, the director shall not expend money credited to the fund for the administration and enforcement of the Title V permit program established under this chapter and rules adopted under it or motor vehicle inspection and maintenance programs established under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 of the Revised Code.

(C) The director shall report biennially to the general assembly the amounts of fees and other moneys credited to the ~~fund~~ funds under this section and the amounts expended from ~~it~~ them for each of the various air pollution control programs.

Sec. 3705.24. (A)(1) The ~~public~~ director of health ~~council~~ shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request.

(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;

(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;

(e) Any other documents or services for which the ~~public health council~~ director considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than twelve dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections 3109.14 and 3705.242 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics, the board of health of a city or general health district, or a local registrar of vital statistics who is not a salaried employee of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in this state. A board of health or a local registrar shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided

in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In

setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

(I)(1) Four dollars of each fee collected by the board of health of a city or general health district for a certified copy of a vital record or a certification of birth shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems. Of each four dollars collected, one dollar shall be used by the director of health to pay subsidies to boards of health. The subsidies shall be distributed in accordance with the same formula established under section 3701.342 of the Revised Code for the distribution of state health district subsidy funds to boards of health and local health departments.

(2) Four dollars of each fee collected by a local registrar of vital statistics who is not a salaried employee of a city or general health district, for a certified copy of a vital record or certification of birth, shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems.

Sec. 3705.242. (A)(1) The director of health, a person authorized by the director, a local commissioner of health, or a local registrar of vital statistics shall charge and collect a fee of one dollar and fifty cents for each certified copy of a birth record, each certification of birth, and each copy of a death record. The fee is in addition to the fee imposed by section 3705.24 or any other section of the Revised Code. A local commissioner of health or local registrar of vital statistics may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the ~~treasurer of state~~ department of health. ~~The~~

The additional fees collected by the director of health or a person authorized by the director and the additional fees collected~~,~~ but not retained~~, under division (A)(1) of this section~~ by a local commissioner of health or a local registrar of vital statistics shall be forwarded to the ~~treasurer of state~~ department of health not later than thirty days following the end of each quarter. Not later than two days after the fees are forwarded to the department each quarter, the department shall pay the collected fees to the treasurer of state in accordance with rules adopted by the treasurer of state under section 113.08 of the Revised Code.

(2) On the filing of a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, a court of common pleas shall charge and collect a fee of five dollars and fifty cents. The fee is in addition to any other court costs or fees. The county clerk of courts may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding

of the fee to the treasurer of state. The additional fees collected, but not retained, under division (A)(2) of this section shall be forwarded to the treasurer of state not later than twenty days following the end of each month.

(B) The treasurer of state shall deposit the fees paid or forwarded under this section in the state treasury to the credit of the family violence prevention fund, which is hereby created. A person or government entity that fails to pay or forward the fees in a timely manner, as determined by the treasurer of state, shall ~~forward~~ send to the treasurer of state, in addition to the fees, a penalty equal to ten per cent of the fees.

The treasurer of state shall invest the moneys in the fund. All earnings resulting from investment of the fund shall be credited to the fund, except that actual administration costs incurred by the treasurer of state in administering the fund may be deducted from the earnings resulting from investments. The amount that may be deducted shall not exceed three per cent of the total amount of fees credited to the fund in each fiscal year. The balance of the investment earnings shall be credited to the fund.

(C) The director of public safety shall use money credited to the fund to provide grants to family violence shelters in Ohio and to operate the division of criminal justice services.

Sec. 3705.30. (A) As used in this section:

(1) "Freestanding birthing center" has the same meaning as in section ~~3702.51~~ 3702.141 of the Revised Code.

(2) "Hospital" means a hospital classified under section 3701.07 of the Revised Code as a general hospital or children's hospital.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or

osteopathic medicine and surgery.

(B) The director of health shall establish and, if funds for this purpose are available, implement a statewide birth defects information system for the collection of information concerning congenital anomalies, stillbirths, and abnormal conditions of newborns.

(C) If the system is implemented under division (B) of this section, all of the following apply:

(1) The director may require each physician, hospital, and freestanding birthing center to report to the system information concerning all patients under five years of age with a primary diagnosis of a congenital anomaly or abnormal condition. The director shall not require a hospital, freestanding birthing center, or physician to report to the system any information that is reported to the director or department of health under another provision of the Revised Code or Administrative Code.

(2) On request, each physician, hospital, and freestanding birthing center shall give the director or authorized employees of the department of health access to the medical records of any patient described in division (C)(1) of this section. The department shall pay the costs of copying any medical records pursuant to this division.

(3) The director may review vital statistics records and shall consider expanding the list of congenital anomalies and abnormal conditions of newborns reported on birth certificates pursuant to section 3705.08 of the Revised Code.

(D) A physician, hospital, or freestanding birthing center that provides information to the system under division (C) of this section shall not be subject to criminal or civil liability for providing the information.

Sec. 3706.19. (A) There is hereby created in the Ohio air quality development authority the office of ~~ombudsman~~ ombudsperson for the small business stationary source technical and environmental compliance assistance program created under section 3704.18 of the Revised Code. The office shall exercise its duties independently of any other state agency.

(B) ~~Not later than one year after the effective date of this section, the~~ The governor, with the advice and consent of the senate, shall appoint the ~~initial ombudsman~~ ombudsperson. The ~~ombudsman~~ ombudsperson shall serve for a term of four years. The person who is appointed to serve as the ~~ombudsman~~ ombudsperson shall be experienced in management and in working with private enterprise and government entities, knowledgeable in the areas of arbitration and negotiation, experienced in interpreting statutory and regulatory law, and knowledgeable in investigation techniques and procedures, recordkeeping, and report writing. The ~~ombudsman~~ ombudsperson may be the highest ranking managerial employee of the authority.

(C) The ~~ombudsman~~ ombudsperson shall do all of the following:

(1) Ensure that the goals of the program are being met;

(2) Conduct independent evaluations of all aspects of the program;

(3) Review the development and implementation of air pollution control requirements that have an impact on small businesses in the state and provide comments and recommendations, as appropriate, to the environmental protection agency and the United States environmental protection agency;

(4) Facilitate and promote the participation of small businesses in the development of rules to be adopted under Chapter 3704. of the Revised Code that affect small businesses;

(5) Aid in the dissemination of information, including air pollution requirements and control technologies, to small businesses and other interested persons;

(6) Provide free, confidential assistance on individual source problems and grievances presented by small businesses;

(7) Aid in investigating and resolving complaints against, and disputes involving, the agency from small businesses;

(8) Refer small businesses to the appropriate specialist in the program from whom they may obtain information and assistance on affordable alternative technologies, process changes, and products and operational methods to help reduce air pollution and accidental releases;

(9) Work with trade associations and small businesses to effect voluntary compliance with the federal Clean Air Act, Chapter 3704. of the Revised Code, and rules adopted under it;

(10) Work with other states to establish a network for sharing information on small businesses and their efforts to comply with the federal Clean Air Act and state and local air pollution control laws;

(11) Seek public and private funding sources that can financially assist small businesses that are in need of moneys to comply with air pollution control laws;

(12) Conduct studies to evaluate the impacts of the federal Clean Air Act on the state's economy, local economies, and small businesses.

(D) There is hereby created in the state treasury the small business ~~ombudsman~~ ombudsperson fund, which shall consist of moneys transferred to it from the Title V clean air fund created in section 3704.035 of the Revised Code. Moneys in the fund shall be used exclusively for the purposes of this section.

The director of environmental protection and the executive director of the authority annually shall determine the amount of moneys necessary for the operation of the office of the ~~ombudsman~~ ombudsperson. Thereafter, the director shall request the director of budget and management to, and that director shall, transfer that amount of moneys from the Title V clean air fund to the small business ~~ombudsman~~ ombudsperson fund.

(E) There is hereby created in the state treasury the small business assistance fund, which shall consist of moneys credited to it under division (K) of section 3745.11 of the Revised Code. The ~~ombudsman~~ ombudsperson shall use moneys in the fund solely to provide financial assistance to small businesses that have one hundred or fewer employees and that are having financial difficulty complying with the "Clean Air Act Amendments of 1990," 104 Stat. 2399, 42 U.S.C.A. 7401, and regulations adopted under it.

In accordance with Chapter 119. of the Revised Code, the ~~ombudsman~~ ombudsperson shall adopt rules establishing procedures and requirements governing grants awarded under this division.

Sec. 3709.03. (A) There is hereby created in each general health district a district advisory council. A council shall consist of the president of the board of county commissioners, the chief executive of each municipal corporation not constituting a city health district, and the president of the board of township trustees of each township. The board of county commissioners, the legislative body of a municipal corporation, and the board of township trustees of a township may select an alternate from among themselves to serve if the president, the chief executive, or the president of the board of township trustees is unable to attend any meeting of the district advisory council. When attending a meeting on behalf of a council member, the alternate may vote on

any matter on which the member is authorized to vote.

The council shall organize by selecting a chair and secretary from among its members. The council shall adopt bylaws governing its meetings, the transaction of business, and voting procedures.

The council shall meet annually in March at a place determined by the chair and the health commissioner for the purpose of electing the chair and the secretary, making necessary appointments to the board of health, receiving and considering the annual or special reports from the board of health, and making recommendations to the board of health or to the department of health in regard to matters for the betterment of health and sanitation within the district or for needed legislation. The secretary of the council shall notify the district health commissioner and the director of health of the proceedings of such meeting.

Special meetings of the council shall be held on the order of any of the following:

(1) The director of health;

(2) The board of health;

(3) The lesser of five or a majority of district advisory council members.

The district health commissioner shall attend all meetings of the council.

(B) The district advisory council shall appoint four members of the board of health, and the remaining member shall be appointed by the health district licensing council established under section 3709.41 of the Revised Code. At least one member of the board of health shall be a physician. Appointments shall be made with due regard to equal representation of all parts of the district.

(C) If at an annual or special meeting at which a member of the board of health is to be appointed fewer than a majority of the members of the district council are present, the council, by the majority vote of council members present, may organize an executive committee to make the appointment. An executive committee shall consist of five council members, including the president of the board of county commissioners, the council chair, the council secretary, and two additional council members selected by majority affirmative vote of the council members present at the meeting. The additional members selected shall include one representative of municipal corporations in the district that are not city health districts and one representative of townships in the district. If an individual is eligible for more than one position on the executive committee due to holding a particular office, the individual shall fill one position on the committee and the other position shall be filled by a member selected by a majority affirmative vote of the council members present at the meeting. A council member's alternate for annual meetings may serve as the member's alternate at meetings of the executive committee.

Not later than thirty days after an executive committee is organized, the committee shall meet and the council chair shall present to the committee the matter of appointing a member of the board of health. The committee shall appoint the board member by majority affirmative vote. In the case of a combined health district, the executive committee shall appoint only members of the board of health that are to be appointed by the district advisory council, unless the contract for administration of health affairs in the combined district provides otherwise. If a majority affirmative vote is not reached within thirty days after the executive committee is organized, the director of health shall appoint the member of the board of health under the authority conferred by section 3709.03 of the Revised Code.

If the council fails to meet or appoint a member of the board of health as required by this section or section 3709.02 of the Revised Code, the director of health~~, with the consent of the public health council,~~ may appoint the member.

Sec. 3709.04. If in any general health district the district advisory council fails to meet or to select a board of health, the director of health may~~, with the consent of the public health council,~~ appoint a board of health for such district which shall have and exercise all powers conferred on a board of health of a general health district.

Sec. 3709.06. If any city fails to establish a board of health under section 3709.05 of the Revised Code, the director of health~~, with the approval of the public health council,~~ may appoint a health commissioner for such city, and fix ~~his~~ the commissioner's salary and term of office. Such commissioner shall have the same powers and perform the duties granted to or imposed upon a board of health of a city health district, except that rules, regulations, or orders of a general nature, made by ~~him~~ the commissioner and required to be published, shall be approved by the director. The salary of such commissioner and all necessary expenses incurred by ~~him~~ the commissioner in performing the duties of the board shall be paid by and be a valid claim against such city.

Sec. 3709.085. (A) The board of health of a city or general health district may enter into a contract with any political subdivision or other governmental agency to obtain or provide all or part of any services, including, but not limited to, enforcement services, for the purposes of Chapter 3704. of the Revised Code, the rules adopted and orders made pursuant thereto, or any other ordinances or rules for the prevention, control, and

abatement of air pollution.

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

(a) "Semipublic disposal system" means a disposal system that treats the sanitary sewage discharged from publicly or privately owned buildings or places of assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment, but does not include a disposal system that treats sewage in amounts of more than twenty-five thousand gallons per day; a disposal system for the treatment of sewage that is exempt from the requirements of section 6111.04 of the Revised Code pursuant to division (F)(7) of that section; or a disposal system for the treatment of industrial waste.

(b) Terms defined in section 6111.01 of the Revised Code have the same meanings as in that section.

(2) The board of health of a city or general health district may enter into a contract with the environmental protection agency to conduct on behalf of the agency inspection or enforcement services, for the purposes of Chapter 6111. of the Revised Code and rules adopted thereunder, for the disposal or treatment of sewage from semipublic disposal systems. The board of health of a city or general health district may charge a fee established pursuant to section 3709.09 of the Revised Code to be paid by the owner or operator of a semipublic disposal system for inspections conducted by the board pursuant to a contract entered into under division (B)(2) of this section, except that the board shall not charge a fee for those inspections conducted at any recreational vehicle park, recreation camp, or combined park-camp that is licensed under section 3729.05 of the Revised Code or at any manufactured home park that is licensed under section ~~3733.03~~ 4781.27 of the Revised Code.

Sec. 3709.09. (A) The board of health of a city or general

health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board.

The fee for issuance of a certified copy of a vital record or a certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules under section 111.15 of the Revised Code that establish fee categories and a uniform methodology for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, and 3749.04 of the Revised Code. In adopting the rules, the ~~public health council~~ director shall consider recommendations it receives from advisory boards established either by statute or the director ~~of health~~ for entities subject to the fees.

(C) Except when a board of health establishes a fee by adopting a rule as an emergency measure, the board of health shall hold a public hearing regarding each proposed fee for a service provided by the board for a purpose specified in section 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, or 3749.04 of the Revised Code. If a public hearing is held, at least twenty days prior to the public hearing the board shall give written notice of the

hearing to each entity affected by the proposed fee. The notice shall be mailed to the last known address of each entity and shall specify the date, time, and place of the hearing and the amount of the proposed fee.

(D) If payment of a fee established under this section is not received by the day on which payment is due, the board of health shall assess a penalty. The amount of the penalty shall be equal to twenty-five per cent of the applicable fee.

(E) All rules adopted by a board of health under this section shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such rules shall be by publication in one newspaper of general circulation within the health district. Publication shall be made once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and such rules shall take effect and be in force ten days from the date of the first publication.

Sec. 3709.092. (A) A board of health of a city or general health district shall transmit to the director of health all fees or additional amounts that the ~~public health council~~ director requires to be collected under sections 3701.344, 3718.06, 3729.07, and 3749.04 of the Revised Code. The fees and amounts shall be transmitted according to the following schedule:

(1) For fees and amounts received by the board on or after the first day of January but not later than the thirty-first day of March, transmit the fees and amounts not later than the fifteenth day of May;

(2) For fees and amounts received by the board on or after the first day of April but not later than the thirtieth day of June, transmit the fees and amounts not later than the fifteenth

day of August;

(3) For fees and amounts received by the board on or after the first day of July but not later than the thirtieth day of September, transmit the fees and amounts not later than the fifteenth day of November;

(4) For fees and amounts received by the board on or after the first day of October but not later than the thirty-first day of December, transmit the fees and amounts not later than the fifteenth day of February of the following year.

(B) The director shall deposit the fees and amounts received under this section into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. Each amount shall be used solely for the purpose for which it was collected.

Sec. 3709.32. The president of each board of health providing health services in one or more health districts and the chief executive officer of each health department providing health services in one or more health districts shall, on or before the first day of March of each year, certify the amounts expended during the preceding calendar year which qualify for state health district subsidy funds under section 3701.342 of the Revised Code and rules ~~of~~ adopted by the ~~public~~ director of health ~~council~~. The director of health shall certify the amount payable under the state health district subsidy funds distribution formula adopted by the ~~public~~ director of health ~~council~~ under section 3701.342 of the Revised Code to the director of budget and management for payment. Payment shall not be made unless:

(A) The board or department has provided such information concerning services and costs as is requested by the director of health;

(B) The certificate of the board of health or health department has been endorsed by the director of health;

(C) The board or department has complied with section 3701.342 of the Revised Code and ~~public health council~~ rules adopted by the director of health;

(D) The municipal corporations and townships composing the health district have provided adequate local funding for public health services. The ~~public~~ director of health ~~council~~ shall determine what constitutes adequate local funding, and may grant an exception to this requirement to a municipal corporation or township if unusually severe economic conditions prevent it from receiving adequate tax revenues to help support minimally acceptable public health services.

No state health district subsidy funds shall be granted to any board or department that decreases its appropriation for public health services in anticipation of using state funds to provide public health services normally supported by local revenues.

Sec. 3709.35. If the director of health ~~finds~~ charges that the health commissioner or a member of the board of health of a health district is guilty of misfeasance, malfeasance, or nonfeasance or has failed to perform any or all of the duties required by sections 3701.10, 3701.29, 3701.81, 3707.08, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the Revised Code, the director ~~shall prefer a charge against the commissioner or board member before the public health council and~~ shall notify the commissioner or board member as to the time and place at which such charges will be heard. If the ~~council~~ director, after hearing, finds the commissioner or board member guilty of the charge, it may remove such commissioner or member from office.

If the lesser of three or one-fifth of the members of a

district advisory council have reason to believe a member of the board of health of a general health district is guilty of misfeasance, malfeasance, or nonfeasance or has failed to perform any or all of the duties required by sections 3701.10, 3701.29, 3701.81, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the Revised Code, the district advisory council members shall prefer a charge against the board member before the district advisory council and shall notify the board member as to the time and place at which such charges will be heard. If a majority of the council, after hearing, finds the board member guilty of the charge, it may remove the member from office.

When any member of the board of health of a general or city health district is removed from office, the district advisory council or the chief executive of the city, upon notice of such removal, shall within thirty days after receipt of such notice fill the vacancy in accordance with section 3709.03 or 3709.05 of the Revised Code.

Sec. 3710.01. As used in this chapter:

(A) "Asbestos" means the asbestiform varieties of chrysotile or serpentine, amosite or cummingtonitegrunerite, crocidolite or riebeckite, actinolite, tremolite, and anthophylite.

(B) "Asbestos hazard abatement activity" means any activity involving the removal, renovation, enclosure, repair, or encapsulation of reasonably related friable asbestos-containing materials in an amount greater than fifty linear feet or fifty square feet. "Asbestos hazard abatement activity" also includes any such activity involving such asbestos-containing materials in an amount of fifty linear or fifty square feet or less if, when combined with any other reasonably related activity in terms of time and location of the activity, the total amount is in an amount greater than fifty linear or fifty square feet.

(C) "Asbestos hazard abatement contractor" means a business entity or public entity that engages in or intends to engage in asbestos hazard abatement activities and that employs or supervises one or more asbestos hazard abatement specialists for asbestos hazard abatement activities. "Asbestos hazard abatement contractor" does not mean an employee of an asbestos hazard abatement contractor, a general contractor who subcontracts to an asbestos hazard abatement contractor an asbestos hazard abatement activity, or any individual who engages in asbestos hazard abatement activity in ~~his~~ the individual's own home.

(D) "Asbestos hazard abatement project" means one or more asbestos hazard abatement activities that are conducted by one asbestos hazard abatement contractor and that are reasonably related to each other.

(E) "Asbestos hazard abatement specialist" means a person with responsibility for the oversight or supervision of asbestos hazard abatement activities, including asbestos hazard abatement project managers, hazard abatement project supervisors and foremen, and employees of school districts or other governmental or public entities who coordinate or directly supervise or oversee asbestos hazard abatement activities performed by school district, governmental, or other public employees in school district, governmental, or other public buildings.

(F) "Asbestos hazard evaluation specialist" means a person responsible for the identification, detection, and assessment of asbestos-containing materials, the determination of appropriate response actions, or the preparation of asbestos management plans for the purpose of protecting the public health from the hazards associated with exposure to asbestos, including the performance of air and bulk sampling. This category of specialists includes management planners, health professionals, industrial hygienists, private consultants, or other individuals involved in asbestos

risk identification or assessment or regulatory activities.

(G) "Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern.

(H) "Public entity" means the state or any of its political subdivisions or any agency or instrumentality of either.

(I) "License" means a document issued by the department of health to a business entity or public entity affirming that the entity has met the requirements set forth in this chapter to engage in asbestos hazard abatement activities as an asbestos hazard abatement contractor.

(J) "Certificate" means:

(1) A document issued by the department to an individual affirming that the individual has successfully completed the training and other requirements set forth in this chapter to qualify as an asbestos hazard abatement specialist, an asbestos hazard evaluation specialist, an asbestos hazard abatement worker, an asbestos hazard abatement project designer, an asbestos hazard abatement air-monitoring technician, an approved asbestos hazard training provider, or other category of asbestos hazard specialist that the ~~public health council~~ director establishes by rule; or

(2) A document issued by a training institution in accordance with rules adopted by the ~~public health council~~ director affirming that an individual has successfully completed the instruction required in all categories as provided in sections 3710.07 and 3710.10 of the Revised Code.

(K) "Person" means any individual, business entity, governmental body, or other public or private entity.

(L) "Encapsulate" means to coat, bind, or resurface walls, ceilings, pipes, or other structures to prevent friable asbestos from becoming airborne.

(M) "Friable asbestos-containing material" means any material that contains more than one per cent asbestos by weight and that can be crumbled, pulverized, or reduced to powder, when dry, by hand pressure.

(N) "Enclosure" means the permanent confinement of friable asbestos-containing materials with an airtight barrier in an area not used as an air plenum.

(O) "Renovation" means the removal or stripping of friable asbestos-containing materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or load supporting member.

(P) "Asbestos hazard abatement worker" means the person responsible in a nonsupervisory capacity for the performance of an asbestos hazard abatement activity.

(Q) "Asbestos hazard abatement project designer" means the person responsible for the determination of the workscope, work sequence, or performance standards for an asbestos hazard abatement activity, including preparation of specifications, plans, and contract documents.

(R) "Director" means the director of health or ~~his~~ the director's authorized representative.

(S) "Clearance air sampling" means an air sampling performed after the completion of any asbestos hazard abatement activity and prior to the reoccupation of the contained work area by the public and conducted for the purpose of protecting the public from the health hazards associated with exposure to friable asbestos-containing material.

(T) "Asbestos hazard abatement air-monitoring technician" means the person who is responsible for environmental monitoring or work area clearance air sampling, including air monitoring performed to determine completion of response actions under the rules set forth in 40 C.F.R. 763 Subpart E, adopted by the United

States environmental protection agency pursuant to the "Asbestos Hazard Emergency Response Act of 1986," Pub. L. 99-519, 100 Stat. 2970. "Asbestos hazard abatement air-monitoring technician" does not mean an industrial hygienist or industrial hygienist in training, certified by the American board of industrial hygiene.

Sec. 3710.02. (A) ~~Subject to~~ In accordance with Chapter 119. of the Revised Code, the ~~public~~ director of health ~~council~~ shall, as ~~it~~ the director determines necessary, adopt rules to carry out this chapter. The rules shall include all of the following:

(1) Criteria and procedures for the certification of asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement workers, asbestos hazard abatement project designers, and asbestos hazard abatement air-monitoring technicians by the director of health;

(2) Criteria and procedures for the director to examine the records of licensees, certificate holders, and asbestos hazard abatement training schools;

(3) Procedures and criteria in addition to those provided in this chapter for the approval of courses for asbestos hazard training;

(4) Fees for licenses, certifications, and course approvals in excess of the levels set in section 3710.05 of the Revised Code and fees for the certification of asbestos hazard abatement air-monitoring technicians;

(5) Levels of asbestos exposure or other circumstances constituting a public health emergency that authorize the director to issue an emergency order under division (B) of section 3710.13 of the Revised Code;

(6) Employee training standards, work practices that reduce the risk of contamination and recontamination of the environment,

record-keeping requirements, action levels, project clearance levels, and other requirements that asbestos hazard abatement contractors, asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement project designers, asbestos hazard abatement air-monitoring technicians, asbestos hazard abatement workers, and other persons involved with asbestos hazard abatement activities must follow for the prevention of hazard to the public;

(7) Worker protection equipment and practices and other health and safety standards for employees and agents of public entities coming in contact with asbestos through asbestos hazard abatement activity;

(8) Standards of acceptable conduct for licensees and certificate holders engaged in asbestos hazard abatement or evaluation activities and acts and omissions that constitute grounds for the suspension or revocation of a license or certificate, or the denial of an application or renewal of a license or certificate in addition to those otherwise provided in this chapter;

(9) Training requirements for asbestos hazard abatement project designers and asbestos hazard abatement air-monitoring technicians;

(10)(a) Subject to the condition specified in division (A)(10)(b) of this section, a standard requiring that the amount of asbestos contained in the air in areas accessible to the public in buildings that are owned, operated, or leased by a public entity be not more than ten thousand asbestos fibers longer than five microns per cubic meter of air calculated as an eight-hour time-weighted average, which is measured during periods of normal building occupancy, and a requirement that measurement of airborne asbestos be made by either or both of the following methods, provided that results derived by use of the method described in

division (A)(10)(a)(i) of this section supersede results derived by use of the method described in division (A)(10)(a)(ii) of this section if both methods are used and the methods yield conflicting results concerning the presence of fibers in the tested air that may not be asbestos:

(i) Transmission electron microscopy in the manner described in the measurement protocol established by the United States environmental protection agency as set forth in 40 C.F.R. 763;

(ii) Optical phase contrast microscopy in the manner described in the measurement protocol established by the United States occupational safety and health administration as set forth in 29 C.F.R. 1910.

(b) The ~~public health council~~ director periodically shall review the standard required by division (A)(10)(a) of this section and determine whether and how it should be amended and how it shall be used in conjunction with visual and physical assessment of asbestos-containing materials located in buildings that are owned, operated, or leased by a public entity to determine appropriate and cost-effective response actions to such asbestos-containing materials and shall amend the standard if it determines that such action is necessary.

(11) Other rules that the ~~public health council~~ director determines necessary for the implementation of this chapter and to protect the public health from the hazards associated with exposure to asbestos.

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

(1) Administer and enforce this chapter and the rules ~~of the public health council~~ adopted pursuant thereto;

(2) Develop comprehensive programs and policies for the control and prevention of nonoccupational exposure of the public to friable asbestos-containing materials;

(3) Ensure that persons are trained and licensed or certified, where appropriate, in accordance with this chapter and the rules ~~of the public health council~~ adopted pursuant thereto;

(4) Examine those records of licensed asbestos hazard abatement contractors, certified asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement project designers, asbestos hazard abatement air-monitoring technicians, and asbestos hazard training courses in accordance with rules adopted by the ~~public health council~~ director as ~~he~~ the director determines necessary to determine compliance with this chapter and the rules ~~of the public health council~~ adopted pursuant thereto;

(5) Prohibit and prevent improper asbestos hazard abatement procedures and require the modification or alteration of asbestos abatement procedures as they relate to this chapter and the rules ~~of the public health council~~ adopted pursuant thereto;

(6) Collect and disseminate health education information relating to safe management of asbestos hazards;

(7) Accept and administer grants from the federal government and other sources, both public and private, for carrying out any of ~~his~~ the director's functions;

(8) As ~~he~~ the director determines appropriate, conduct on-site inspections at any location where an asbestos hazard abatement activity is planned, in progress, or has been completed, at any location where a public health emergency may occur, is occurring, or has occurred, or to evaluate the performance or compliance of any person subject to this chapter;

(9) Conduct an on-site audit of each asbestos hazard training provider approved pursuant to this chapter, at least once biennially, during an actual course conducted by the provider within the state;

(10) Cooperate and assist in investigations, as such relate to this chapter, conducted by local law enforcement agencies, the Ohio environmental protection agency, the United States occupational safety and health administration, and other local, state, and federal agencies.

Sec. 3710.04. (A) To qualify for an asbestos hazard abatement contractor's license, a business entity or public entity shall meet the requirements of this section.

(B) Each employee or agent of the business entity or public entity applying for a license who will come in contact with asbestos or will be responsible for an asbestos hazard abatement project shall:

(1) Be familiar with all applicable state and federal standards for asbestos hazard abatement projects;

(2) Have successfully completed the course of instruction on asbestos hazard abatement activities, for their particular certification, approved by the department of health pursuant to section 3710.10 of the Revised Code, have passed an examination approved by the department, and demonstrate to the department that ~~he~~ the employee or agent is capable of complying with all applicable standards of this state, the United States environmental protection agency, and the United States occupational safety and health administration.

(C) A business entity or public entity applying for an asbestos hazard abatement contractor's license shall, in addition to the other requirements of this section, provide at least one asbestos hazard abatement specialist, certified pursuant to this chapter and the rules ~~of the public health council~~ adopted ~~pursuant thereto~~ under it, for each asbestos hazard abatement project, and demonstrate to the satisfaction of the department that ~~he~~ the applicant:

(1) Has access to at least one asbestos disposal site approved by the Ohio environmental protection agency that is sufficient for the deposit of all asbestos waste that ~~he~~ the applicant will generate during the term of the license;

(2) Is sufficiently qualified to safely remove asbestos, demonstrated by reliability as an asbestos hazard abatement contractor, possesses a work program that prevents the contamination or recontamination of the environment and protects the public health from the hazards of exposure to asbestos, possesses evidence of certification of each individual employee or agent who will be responsible for others who may come in contact with friable asbestos-containing materials, possesses evidence of training of workers required by section 3710.07 of the Revised Code, and has prior successful experience in asbestos hazard abatement projects or equivalent qualifications as determined ~~by rule~~ in accordance with rules adopted by the ~~public~~ director of health ~~council~~;

(3) Possesses a worker protection program consistent with requirements established by the ~~public health council~~ director if the contractor is a public entity, and a worker protection program consistent with the requirements of the United States occupational safety and health administration if the contractor is a business entity;

(4) Is registered as a business entity with the secretary of state.

(D) No applicant for licensure as an asbestos hazard abatement contractor, in order to meet the requirements of this chapter, shall list an employee of another contractor.

(E) The business entity or public entity shall meet any other standards that the ~~public health council~~ director, by rule, sets.

(F) Nothing in this chapter or the rules adopted pursuant

thereto relating to asbestos hazard abatement project designers shall be interpreted as authorizing or permitting an individual who is certified as an asbestos hazard abatement project designer to perform the services of a registered architect or professional engineer unless that person is registered under Chapter 4703. or 4733. of the Revised Code to perform such services.

Sec. 3710.05. (A) Except as otherwise provided in this chapter, no person shall engage in any asbestos hazard abatement activities in this state unless licensed or certified pursuant to this chapter.

(B) To apply for licensure as an asbestos abatement contractor or certification as an asbestos hazard abatement specialist, an asbestos hazard evaluation specialist, an asbestos hazard abatement project designer, or an asbestos hazard abatement air-monitoring technician, a person shall do all of the following:

(1) Submit a completed application to the department of health, on a form provided by the department;

(2) Pay the requisite fee as provided in division (D) of this section;

(3) Submit any other information the ~~public~~ director of health ~~council~~ by rule requires.

(C) The application form for a business entity or public entity applying for an asbestos hazard abatement contractor's license shall include all of the following:

(1) A description of the protective clothing and respirators that the public entity will use to comply with rules adopted by the ~~public health council~~ director and that the business entity will use to comply with requirements of the United States occupational safety and health administration;

(2) A description of procedures the business entity or public

entity will use for the selection, utilization, handling, removal, and disposal of clothing to prevent contamination or recontamination of the environment and to protect the public health from the hazards associated with exposure to asbestos;

(3) The name and address of each asbestos disposal site that the business entity or public entity might use during the year;

(4) A description of the site decontamination procedures that the business entity or public entity will use;

(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;

(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;

(7) A description of the air-monitoring procedures that the business entity or public entity will use to prevent contamination or recontamination of the environment and to protect the public health from the hazards of exposure to asbestos;

(8) A description of the final clean-up procedures that the business entity or public entity will use;

(9) A list of all partners, owners, and officers of the business entity along with their social security numbers;

(10) The federal tax identification number of the business entity or the public entity.

(D) The fees to be charged to each public entity and business entity and their employees and agents for licensure, certification, approval, and renewal of licenses, certifications, and approvals granted under this chapter, subject to division (A)(4) of section 3710.02 of the Revised Code, are:

(1) Seven hundred fifty dollars for asbestos hazard abatement contractors;

(2) Two hundred dollars for asbestos hazard abatement project

designers;

(3) Fifty dollars for asbestos hazard abatement workers;

(4) Two hundred dollars for asbestos hazard abatement specialists;

(5) Two hundred dollars for asbestos hazard evaluation specialists; and

(6) Nine hundred dollars for approval or renewal of asbestos hazard training providers.

(E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities solely at its own place of business is required to be licensed as an asbestos hazard abatement contractor provided that the business entity is required to and does comply with all applicable standards of the United States environmental protection agency and the United States occupational safety and health administration and provided further that all persons employed by the business entity on the activity meet the requirements of this chapter.

Sec. 3710.051. No person shall enter into an agreement to perform any aspect of an asbestos hazard abatement project unless the agreement is written and contains at least all of the following:

(A) A requirement that all persons working on the project are licensed or certified by the department of health as required by this chapter;

(B) A requirement that all project clearance levels and sampling be in accordance with ~~the public health council~~ rules adopted by the director of health;

(C) A requirement that all clearance air-monitoring be conducted by asbestos hazard abatement air-monitoring technicians or asbestos hazard evaluation specialists certified by the

department.

Sec. 3710.06. (A) Within fifteen business days after receiving an application, the department of health shall acknowledge receipt of the application and notify the applicant of any deficiency in the application. Within sixty calendar days after receiving a completed application, including all additional information requested by the department, the department shall issue a license or certificate or deny the application. The department shall issue only one license or certificate that is in effect at one time to a business entity and its principal officers and a public entity and its principal officers.

(B)(1) The department shall deny an application if it determines that the applicant has not demonstrated the ability to comply fully with all applicable federal and state requirements and all requirements, procedures, and standards established by the ~~public~~ director of health ~~council~~ in this chapter.

(2) The department shall deny any application for an asbestos hazard abatement contractor's license if the applicant or an officer or employee of the applicant has been convicted of a felony under any state or federal law designed to protect the environment.

(3) The department shall send all denials of an application by certified mail to the applicant. If the department receives a timely request for a hearing from the applicant, as provided in division (D) of section 3710.13 of the Revised Code, the department shall hold a hearing in accordance with Chapter 119. of the Revised Code.

(C) In an emergency that results from a sudden, unexpected event that is not a planned asbestos hazard abatement project, the department may waive the requirements for a license or certificate. For the purposes of this division, "emergency"

includes operations necessitated by nonroutine failures of equipment or by actions of fire and emergency medical personnel pursuant to duties within their official capacities. Any person who performs an asbestos hazard abatement activity under emergency conditions shall notify the director within three days after performance thereof.

(D) Each license or certificate issued under this chapter expires one year after the date of issue, but each licensee or certificate holder may apply to the department for the extension of ~~his~~ the holder's license or certificate under the standard renewal procedures of Chapter 4745. of the Revised Code.

To qualify for renewal of a license or certificate issued under this chapter, each licensee or certificate holder shall send the appropriate renewal fee set forth in division (D) of section 3710.05 of the Revised Code or as adopted by rule by the ~~public health council~~ director pursuant to division (A)(4) of section 3710.02 of the Revised Code.

Certificate holders also shall successfully complete an annual renewal course approved by the department pursuant to section 3710.10 of the Revised Code.

(E) The department may charge a fee in addition to those specified in division (D) of section 3710.05 of the Revised Code or in ~~rule of~~ rules adopted by the ~~public health council~~ director pursuant to division (A)(4) of section 3710.02 of the Revised Code if the licensee or certificate holder applies for renewal after the expiration thereof or requests a reissuance of any license or certificate, provided that no such fee shall exceed the original fees by more than fifty per cent.

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard abatement project, an asbestos hazard abatement contractor shall do all of the following:

(1) Prepare a written respiratory protection program as defined by the ~~public~~ director of health ~~council~~ pursuant to rule, and make the program available to the department of health, and workers at the job site if the contractor is a public entity or prepare a written respiratory protection program, consistent with 29 C.F.R. 1910.134 and make the program available to the department, and workers at the job site if the contractor is a business entity;

(2) Ensure that each worker who will be involved in any asbestos hazard abatement project has been examined within the preceding year and has been declared by a physician to be physically capable of working while wearing a respirator;

(3) Ensure that each of the contractor's employees or agents who will come in contact with asbestos-containing materials or will be responsible for an asbestos hazard abatement project receives the appropriate certification or licensure required by this chapter and the following training:

(a) An initial course approved by the department pursuant to section 3710.10 of the Revised Code, completed before engaging in any asbestos hazard abatement project; and

(b) An annual review course approved by the department pursuant to section 3710.10 of the Revised Code.

(B) After obtaining or renewing a license, an asbestos hazard abatement contractor shall notify the department, on a form approved by the director of health, at least ten days before beginning each asbestos hazard abatement project conducted during the term of the contractor's license.

(C) In addition to any other fee imposed under this chapter, an asbestos hazard abatement contractor shall pay, at the time of providing notice under division (B) of this section, the department a fee of sixty-five dollars for each asbestos hazard

abatement project conducted.

Sec. 3710.08. (A) An asbestos hazard abatement contractor engaging in any asbestos hazard abatement project shall, during the course of the project:

(1) Conduct each project in a manner that is in compliance with the requirements the director of environmental protection adopts pursuant to section 3704.03 of the Revised Code and the asbestos requirements of the United States occupational safety and health administration set forth in 29 C.F.R. 1926.58;

(2) Comply with all applicable rules adopted by the ~~public~~ director of health ~~council~~ pursuant to section 3710.02 of the Revised Code.

(B) An asbestos hazard abatement contractor that is a public entity shall:

(1) Provide workers with protective clothing and equipment and ensure that the workers involved in any asbestos hazard abatement project use the items properly. Protective clothing and equipment shall include:

(a) Respirators approved by the national institute of occupational safety and health. These respirators shall be fit tested in accordance with requirements of the United States occupational safety and health administration set forth in 29 C.F.R. 1926.58(h). At the request of an employee, the asbestos hazard abatement contractor shall provide the employee with a powered air purifying respirator, in which case, the testing requirements of division (B)(1)(a) of this section do not apply.

(b) Items required by the ~~public~~ director of health ~~council~~ by rule as provided in division (A)(7) of section 3710.02 of the Revised Code.

(2) Comply with all applicable standards of conduct and

requirements adopted by ~~the public health council and~~ the director of health pursuant to section 3710.02 of the Revised Code.

(C) An asbestos hazard abatement specialist engaging in any asbestos hazard abatement project shall, during the course of the project:

(1) Conduct each project in a manner that will meet decontamination procedures, project containment procedures, and asbestos fiber dispersal methods as provided in division (A)(6) of section 3710.02 of the Revised Code;

(2) Ensure that workers utilize, handle, remove, and dispose of the disposable clothing provided by abatement contractors in a manner that will prevent contamination or recontamination of the environment and protect the public health from the hazards of exposure to asbestos;

(3) Ensure that workers utilize protective clothing and equipment and comply with the applicable health and safety standards set forth in division (A) of section 3710.08 of the Revised Code;

(4) Ensure that there is no smoking, eating, or drinking in the work area;

(5) Comply with all applicable standards of conduct and requirements adopted by the ~~public health council and~~ director of health pursuant to section 3710.02 of the Revised Code.

(D) An asbestos hazard evaluation specialist engaged in the identification, detection, and assessment of asbestos-containing materials, the determination of appropriate response actions, or other activities associated with an abatement project or the preparation of management plans, shall comply with the applicable standards of conduct and requirements adopted by ~~the public health council and~~ the director of health pursuant to section 3710.02 of the Revised Code.

(E) Every asbestos hazard abatement worker shall comply with all applicable standards adopted by the ~~public~~ director of health ~~council~~ pursuant to section 3710.02 of the Revised Code.

(F) The department may, on a case-by-case basis, approve an alternative to the worker protection requirements of divisions (A), (B), and (C) of this section for an asbestos hazard abatement project conducted by a public entity, provided that the asbestos hazard abatement contractor submits the alternative procedure to the department in writing and demonstrates to the satisfaction of the department that the proposed alternative procedure provides equivalent worker protection.

Sec. 3710.09. (A) As a means of protecting the public, each asbestos hazard abatement contractor licensed under this chapter shall maintain records of all asbestos hazard abatement projects which ~~he~~ the contractor performs and make these records available to the department of health upon request. The licensee shall maintain the records for at least thirty years.

(B) The records required by this section shall include all of the following:

(1) The name, social security number, and address of the person who supervised the asbestos hazard abatement project;

(2) The names and social security numbers of all workers at the job site;

(3) The location and description of the asbestos hazard abatement project and the amount of asbestos-containing material that was removed;

(4) The starting and completion dates of each asbestos hazard abatement project;

(5) A summary of the procedures that were used to comply with all applicable federal, state, and local standards;

(6) The name and address of each asbestos disposal site where the waste containing asbestos was deposited;

(7) Any other information that the ~~public~~ director of health ~~council~~, by rule, requires.

Sec. 3710.10. (A) No person other than the department of health shall conduct or offer to conduct any initial or review training course or examination required by this chapter unless that person is approved to sponsor the courses and examinations under this section. In conducting any such course or examination, the department and the approved person shall administer the courses and examinations according to the United States environmental protection agency "Model Accreditation Plan," 40 C.F.R. 763, Subpart E, Appendix C, and the rules of the ~~public~~ director of health ~~council~~ adopted pursuant to division (A)(3) of section 3710.02 of the Revised Code. A person may apply for approval or renewal of a course on the health and safety aspects of asbestos hazard abatement activities which meets the requirements of division (A)(3) of section 3710.07 of the Revised Code by submitting a written application on forms provided by the department.

(B) In order to obtain or renew department approval, a person sponsoring a course shall substantially satisfy all of the following criteria:

(1) Provide courses of instruction and examinations that meet the requirements of division (A) of this section;

(2) Ensure that instruction is given or supervised by personnel with sufficient education and experience as determined~~,~~ ~~by rule,~~ in rules adopted by the ~~public health council~~ director;

(3) Maintain lists of students trained and the dates on which training occurred for at least twenty years, and make this

information available to the department upon request.

(C) In order to obtain or renew department approval, a person sponsoring an initial course or a review course annually shall apply to the department for approval. In applying, the person shall submit the fee set forth in division (D) of section 3710.05 of the Revised Code along with any increase in fee adopted pursuant to division (A)(4) of section 3710.02 of the Revised Code.

(D)(1) The department shall act or acknowledge receipt of an application within ten working days after receiving the application.

(2) The department shall act on the application within ninety days after it is complete.

(3) The department shall grant contingent approval of an application if the department determines the course substantially satisfies or will substantially satisfy the criteria in this chapter and the rules adopted by the ~~public health council~~ director.

(4) The department may deny or revoke approval of a course if the department determines the course does not or will not substantially satisfy the criteria in this chapter or the rules adopted by the ~~public health council~~ director.

(5) The department shall grant final approval of a course only after an on-site audit by the department which reveals that the course substantially satisfies the criteria in this chapter and the rules adopted by the ~~public health council~~ director. Course approvals expire one year from the date of final approval under division (D)(5) of this section.

(E) Each course approval issued under this section expires one year after the date of issue, but a person who received approval may apply to the department for renewal under the

standard renewal procedures of Chapter 4745. of the Revised Code. The fee prescribed in section 3710.05 of the Revised Code must accompany the application.

Sec. 3710.12. Subject to the hearing provisions of this chapter, the department of health may deny, suspend, or revoke any license or certificate, or renewal thereof, if the licensee or certificate holder:

(A) Fraudulently or deceptively obtains or attempts to obtain a license or certificate;

(B) Fails at any time to meet the qualifications for a license or certificate;

(C) Is violating or threatening to violate any provisions of <u>any of the following</u>:

(1) This chapter or the rules of the ~~public health council or~~ director of health adopted pursuant thereto;

(2) The "National Emission Standard for Hazardous Air Pollutants" regulations of the United States environmental protection agency as the regulations pertain to asbestos; ~~or~~

(3) The regulations of the United States occupational safety and health administration as the regulations pertain to asbestos.

Sec. 3710.13. (A) Except as otherwise provided in Chapter 119. of the Revised Code or this section, before the department of health takes any action under section 3710.12 of the Revised Code, it shall give the licensee or certificate holder against whom action is contemplated an opportunity for a hearing.

Except as otherwise provided in this section, the department shall give notice and hold the hearing in accordance with Chapter 119. of the Revised Code.

(B) The department, without notice or hearing and in

accordance with ~~the~~ rules ~~of~~ adopted by the ~~public~~ director of health ~~council~~, may issue an order requiring any action necessary to meet a public health emergency involving asbestos. Any person to whom an order is directed shall immediately comply with the order. Upon application to the director of health, the person shall be afforded a hearing as soon as possible, but no more than twenty days after receipt of the application by the director.

(C) If the director determines, pursuant to division (B) of this section, that a public health emergency exists, ~~he~~ the director may order, without a hearing, the denial, suspension, or revocation of any license or certificate issued under this chapter of the parties involved, provided that an opportunity for a hearing is provided to the affected party as soon as reasonably possible.

(D) All proceedings under this chapter are subject to Chapter 119. of the Revised Code, except that:

(1) Upon the request of a licensee or certificate holder, the location of an adjudicatory hearing is the county seat of the county in which the licensee or certificate holder conducts business.

(2) The director shall notify, by certified mail or personal delivery, a licensee or certificate holder that ~~he~~ the licensee or certificate holder is entitled to a hearing if ~~he~~ the licensee or certificate holder requests it, in writing, within ten days of the time that ~~he~~ the licensee or certificate holder receives the notice. If the licensee or certificate holder requests such a hearing, the director shall set the hearing date no later than ten days after the director receives the request.

(3) The director shall not apply for or receive a postponement or continuation of an adjudication hearing. If a licensee or certificate holder requests a postponement or

continuation of an adjudication hearing, the director only shall grant the request if the licensee or certificate holder demonstrates extreme hardship in complying with the hearing date. If the director grants a postponement or continuation on the grounds of extreme hardship, the director shall include in the record of the case, the nature and cause of the extreme hardship.

(4) In lieu of an adjudicatory hearing required by this chapter, a licensee or certificate holder, by no later than the date set for a hearing pursuant to division (A)(3) of this section, may by written request to the director, request that the matter be resolved by the licensee or certificate holder submitting documents, papers, and other written evidence to the director to support ~~his~~ the licensee's or certificate holder's claim.

(5) If the director appoints a referee or an examiner to conduct a hearing, all of the following apply:

(a) The examiner or referee shall serve, by certified mail and within three business days of the conclusion of the hearing, a copy of the written adjudication report and ~~his~~ the referee's or examiner's recommendations, on the director and the affected licensee or certificate holder or the licensee's or certificate holder's attorney or other representative of record.

(b) The licensee or certificate holder, within three business days of receipt of the report under division (D)(5)(a) of this section, may file with the director written objections to the report and recommendations.

(c) The director shall consider any objections received under division (D)(5)(b) of this section prior to approving, modifying, or disapproving the report and recommendations. Within six business days of receiving the report under division (D)(5)(a) of this section, the director shall serve ~~his~~ the director's order,

by certified mail, on the affected licensee or certificate holder or the licensee's or certificate holder's attorney or other representative of record.

(6) If the director conducts an adjudicatory hearing under this chapter, ~~he~~ the director shall serve ~~his~~ the director's decision, by certified mail and within three business days of the conclusion of the hearing, on the affected licensee or certificate holder or the licensee's or certificate holder's attorney or other representative of record.

(7) If no hearing is held, the director shall issue an order, by certified mail and within three business days of the last date possible for a hearing, based upon the record available to ~~him~~ the director, to the affected licensee or certificate holder or the licensee's or certificate holder's attorney or other representative of record.

(8) A licensee or certificate holder shall file a notice of appeal to an adverse adjudication decision within fifteen days after receipt of the director's order.

Sec. 3710.17. (A) Where any person is certified or licensed by the department of health to engage in asbestos hazard abatement or evaluation activity pursuant to this chapter, the liability of that person when performing such activity in accordance with procedures established pursuant to state or federal law for an injury to any individual or property caused or related to this activity shall be limited to acts or omissions of the person during the course of performing the activity which can be shown, based on a preponderance of the evidence, to have been negligent. For the purposes of this section, the demonstration that acts or omissions of a person performing asbestos hazard abatement or evaluation activities were in accordance with generally accepted practice and with procedures established by state or federal law

at the time the abatement or evaluation activity was performed creates a rebuttable presumption that the acts or omissions were not negligent.

(B) Where any person contracts with a certified asbestos hazard abatement specialist, asbestos hazard evaluation specialist, or other category of asbestos hazard specialist established by the ~~public~~ director of health ~~council~~, or a licensed asbestos hazard abatement contractor, the liability of that person for asbestos-related injuries caused by ~~his~~ the person's contractee in the performance of asbestos hazard abatement or evaluation activities shall be limited to those asbestos-related injuries arising from acts which the person knew or could reasonably have been expected to know were not in accordance with generally accepted practice or with procedures established by state or federal law at the time the abatement activity took place.

(C) Notwithstanding any other provisions of the Revised Code or rules of a court to the contrary, this section governs all claims for asbestos-related injuries arising from asbestos hazard abatement or evaluation activities.

Sec. 3711.04. Each person seeking to operate a maternity unit, newborn care nursery, or maternity home shall apply to the director of health for a license under this chapter. The application shall be submitted in the form and manner prescribed by the ~~public health council~~ director in rules adopted under section 3711.12 of the Revised Code.

A single application and license is required if an applicant will operate both a maternity unit and newborn care nursery.

Sec. 3711.06. The director of health shall inspect each maternity unit, newborn care nursery, or maternity home for which

a person has applied for an initial license under section 3711.04 of the Revised Code prior to issuing the license. Inspections shall be conducted in accordance with inspection criteria, procedures, and guidelines adopted by the ~~public health council~~ director under section 3711.12 of the Revised Code.

Sec. 3711.08. A license issued under this chapter is valid for three years, unless earlier revoked or suspended under section 3711.14 of the Revised Code. The license may be renewed in the manner prescribed by the ~~public~~ director of health ~~council~~ in rules adopted under section 3711.12 of the Revised Code. The license renewal fee specified in the rules shall be paid not later than sixty days after the director of health mails an invoice for the fee to the license holder. A penalty of ten per cent of the amount of the renewal fee shall be assessed for each month the fee is overdue.

Sec. 3711.12. (A) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code as the ~~council~~ director considers necessary to implement the requirements of this chapter for licensure and operation of maternity units, newborn care nurseries, and maternity homes. The rules shall include provisions for the following:

(1) Licensure application forms and procedures;

(2) Renewal procedures, including procedures that address the right of the director of health, at the director's sole discretion, to conduct an inspection prior to renewal of a license;

(3) Initial license fees and license renewal fees;

(4) Fees for inspections conducted by the director under section 3711.10 of the Revised Code;

(5) Safety standards, quality-of-care standards, and

quality-of-care data reporting requirements;

(6) Reporting and auditing requirements;

(7) Inspection criteria, procedures, and guidelines;

(8) Any other rules necessary to implement this chapter.

(B) When adopting rules under this section, the ~~public health council~~ director shall give consideration to recommendations regarding obstetric and newborn care issued by the American college of obstetricians and gynecologists; American academy of pediatrics; American academy of family physicians; American society of anesthesiologists; American college of nurse-midwives; United States centers for disease control and prevention; association of women's health, obstetric and neonatal nurses; and association of perioperative registered nurses, or their successor organizations. The ~~council~~ director shall also consider the recommendations of the maternity and newborn advisory council established in section 3711.20 of the Revised Code.

Sec. 3711.21. The maternity and newborn advisory council shall do all of the following:

(A) Advise and consult with the director of health in the development of rules to be ~~presented to the public health council for proposed adoption~~ adopted under this chapter;

(B) Advise and consult with the director concerning the implementation and enforcement of this chapter;

(C) Advise and consult with the director in the development of inspection criteria, procedures, and guidelines to be used in enforcement of this chapter;

(D) Advise and consult with the director regarding recommendations ~~to be presented to the public health council~~ regarding improving maternity and newborn care in this state;

(E) Prepare and submit to the director an annual report evaluating the department's enforcement of this chapter.

Sec. 3712.03. (A) In accordance with Chapter 119. of the Revised Code, the ~~public~~ director of health ~~council~~ shall adopt, and may amend and rescind, rules:

(1) Providing for the licensing of persons or public agencies providing hospice care programs within this state by the department of health and for the suspension and revocation of licenses;

(2) Establishing a license fee and license renewal fee, neither of which shall, except as provided in division (B) of this section, exceed six hundred dollars. The fees shall cover the three-year period during which an existing license is valid as provided in division (B) of section 3712.04 of the Revised Code.

(3) Establishing an inspection fee not to exceed, except as provided in division (B) of this section, one thousand seven hundred fifty dollars;

(4) Establishing requirements for hospice care program facilities and services;

(5) Providing for a waiver of the requirement for the provision of physical, occupational, or speech or language therapy contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the geographic area served by the provider of a hospice care program;

(6) Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it;

(7) Establishing interpretive guidelines for each rule.

(B) Subject to the approval of the controlling board, the ~~public health council~~ director may establish fees in excess of the maximum amounts specified in this section, provided that the fees do not exceed those amounts by greater than fifty per cent.

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;

(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and

(3) Implement and enforce this chapter and rules adopted under it.

Sec. 3712.04. (A) Every person or public agency that proposes to provide a hospice care program shall apply to the department of health for a license. Application shall be made on forms prescribed and provided by the department, shall include such information as the department requires, and shall be accompanied by the license fee established by rules of the ~~public~~ director of health ~~council~~ adopted under division (A) of section 3712.03 of the Revised Code.

The department shall grant a license to the applicant if the applicant is in compliance with this chapter and rules adopted under it.

(B) A license granted under this section shall be valid for three years. Application for renewal of a license shall be made at least ninety days before the expiration of the license in the same manner as for an initial license. The department shall renew the license if the applicant meets the requirements of this chapter

and rules adopted under it.

(C) Subject to Chapter 119. of the Revised Code, the department may suspend or revoke a license if the licensee made any material misrepresentation in the application for the license or no longer meets the requirements of this chapter or rules adopted under it.

(D) A hospital, nursing home, home for the aged, county medical care facility, or other health facility or agency that provides a hospice care program shall be licensed to provide a hospice care program under this section.

(E) A nursing home licensed under Chapter 3721. of the Revised Code that does not hold itself out to be a hospice, does not hold itself out as providing a hospice care program, does not use the term hospice to describe or refer to its activities or facilities, and that does not provide all of the services enumerated in division (A) of section 3712.01 of the Revised Code is not subject to the licensing provisions of this chapter.

Sec. 3712.09. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a hospice care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" ~~and "older adult" have~~ has the same ~~meanings~~ meaning as in section 109.572 of the Revised Code.

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

(B)(1) Except as provided in division (I) of this section, the chief administrator of a hospice care program shall request

that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check ~~with respect to~~ of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be

employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the ~~public~~ director of health ~~council~~ in accordance with division (F) of this section and subject to division (C)(2) of this section, no hospice care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

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

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

(2)(a) A hospice care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a hospice care program may employ conditionally an applicant who has been referred to the hospice care program by an employment service that supplies full-time,

part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A hospice care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the program shall terminate the individual's employment unless the program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the program about the individual's criminal record.

(D)(1) Each hospice care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A hospice care program may charge an applicant a fee not exceeding the amount the program pays under division (D)(1) of this section. A program may collect a fee only if both of the following apply:

(a) The program notifies the person at the time of initial

application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the program the fee it pays under division (D)(1) of this section.

(E) The report of a criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the hospice care program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section.

(F) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a hospice care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set

by the ~~council~~ director.

(G) The chief administrator of a hospice care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a hospice care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a hospice care program is

not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the hospice care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a hospice care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding

the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the hospice care program. If a hospice care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the hospice care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3713.01. As used in sections 3713.01 to 3713.10 of the Revised Code:

(A) "Person" has the same meaning as used in division (C) of section 1.59 of the Revised Code and also means any limited company, limited liability partnership, joint stock company, or other association.

(B) "Bedding" means any upholstered furniture, any mattress, upholstered spring, comforter, bolster, pad, cushion, pillow, mattress protector, quilt, and any other upholstered article, to be used for sleeping, resting, or reclining purposes, and any glider, hammock, or other substantially similar article that is wholly or partly upholstered.

(C) "Secondhand" means any article, or material, or portion thereof of which prior use has been made in any manner whatsoever.

(D) "Remade, repaired, or renovated articles not for sale" means any article that is remade, repaired, or renovated for and is returned to the owner for the owner's own use.

(E) "Sale," "sell," or "sold" shall, in the corresponding tense, mean sell, offer to sell, or deliver or consign in sale, or possess with intent to sell, or deliver in sale.

(F) "Upholstered furniture" means any article of furniture wholly or partly stuffed or filled with material and that is used or intended for use for sitting, resting, or reclining purposes.

(G) "Stuffed toy" means any article intended for use as a plaything or for an educational or recreational purpose that is wholly or partially stuffed with material.

(H) "Tag" or "label" means any material prescribed by the superintendent of ~~labor~~ industrial compliance to be attached to an article that contains information required under this chapter.

Sec. 3713.02. (A) Except as provided in section 3713.05 of the Revised Code, no person shall import, manufacture, renovate, wholesale, or reupholster stuffed toys or articles of bedding in this state without first registering to do so with the superintendent of ~~labor~~ industrial compliance in accordance with section 3713.05 of the Revised Code.

(B) No person shall manufacture, offer for sale, sell, deliver, or possess for the purpose of manufacturing, selling, or delivering, an article of bedding or a stuffed toy that is not labeled in accordance with section 3713.08 of the Revised Code.

(C) No person shall manufacture, offer for sale, sell, deliver, or possess for the purpose of manufacturing, selling, or delivering, an article of bedding or a stuffed toy that is falsely labeled.

(D) No person shall sell or offer for sale any secondhand article of bedding or any secondhand stuffed toy that has not been sanitized in accordance with section 3713.08 of the Revised Code.

(E) The possession of any article of bedding or stuffed toy

in the course of business by a person required to obtain registration under this chapter, or by that person's agent or servant shall be prima-facie evidence of the person's intent to sell the article of bedding or stuffed toy.

Sec. 3713.03. The superintendent of ~~labor~~ industrial compliance in the department of commerce shall administer and enforce this chapter.

Sec. 3713.04. (A) In accordance with Chapter 119. of the Revised Code, the superintendent of ~~labor~~ industrial compliance shall:

(1) Adopt rules pertaining to the definition, name, and description of materials necessary to carry out this chapter;

(2) Determine the testing standards, fees, and charges to be paid for making any test or analysis required pursuant to section 3713.08 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the superintendent may adopt rules regarding the following:

(1) Establishing an initial application fee or an annual registration renewal fee not more than fifty per cent higher than the fees set forth in section 4713.05 of the Revised Code;

(2) Establishing standards, on a reciprocal basis, for the acceptance of labels and laboratory analyses from other states where the labeling requirements and laboratory analysis standards are substantially equal to the requirements of this state, provided the other state extends similar reciprocity to labels and laboratory analysis conducted under this chapter;

(3) Any other rules necessary to administer and carry out this chapter.

(C) The superintendent may do any of the following:

(1) Issue administrative orders, conduct hearings, and take all actions necessary under the authority of Chapter 119. of the Revised Code for the administration of this chapter. The authority granted under this division shall include the authority to suspend, revoke, or deny registration under this chapter.

(2) Establish and maintain facilities within the department of commerce to make tests and analysis of materials used in the manufacture of bedding and stuffed toys. The superintendent also may designate established laboratories in various sections of the state that are qualified to make these tests. If the superintendent exercises this authority, the superintendent shall adopt rules to determine the fees and charges to be paid for making the tests or analyses authorized under this section.

(3) Exercise such other powers and duties as are necessary to carry out the purpose and intent of this chapter.

Sec. 3713.05. (A) Applications to register to import, manufacture, renovate, wholesale, make, or reupholster stuffed toys or bedding in this state shall be made in writing on forms provided by the superintendent of ~~labor~~ industrial compliance. The application shall be accompanied by a registration fee of fifty dollars per person unless the applicant engages only in renovation, in which case the registration fee shall be thirty-five dollars.

(B) Upon receipt of the application and the appropriate fee, the superintendent shall register the applicant and assign a registration number to the registrant.

(C) Notwithstanding section 3713.02 of the Revised Code and division (A) of this section, the following are exempt from registration:

(1) An organization described in section 501(c)(3) of the

"Internal Revenue Code of 1986," and exempt from income tax under section 501(a) of that code and that is operated exclusively to provide recreation or social services;

(2) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing stuffed toys but who manufactures or makes stuffed toys as a leisure pursuit and who sells one hundred or fewer stuffed toys within one calendar year;

(3) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing quilts, comforters, pillows, or cushions, but who manufactures or makes these items as a leisure pursuit and who sells five or fewer quilts, ten or fewer comforters, or twenty or fewer pillows or cushions within one calendar year.

(D) Notwithstanding division (C)(2) or (3) of this section, a person exempt under that division must attach a label to each stuffed toy that contains all of the following information:

(1) The person's name and address;

(2) A statement that the person is not registered by the state of Ohio;

(3) A statement that the contents of the product have not been inspected.

Sec. 3713.06. (A) Any person required to register under division (A) of section 3713.02 of the Revised Code who imports bedding or stuffed toys into this state for retail sale or use in this state and any person required to register under division (A) of section 3713.02 of the Revised Code who manufactures bedding or stuffed toys in this state for retail sale or use in this state shall submit a report to the superintendent of ~~labor~~ industrial compliance, in a form and manner prescribed by the superintendent.

The form shall be submitted once every six months and shall show the total number of items of bedding or stuffed toys imported into this state or manufactured in this state. Each report shall be accompanied by a fee of four cents for each item of bedding or stuffed toy imported into this state or manufactured in this state.

(B) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall retain records, designated by the superintendent in rule, for the time period established in rule.

(C) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall make sufficient investigation of its records to ensure that the information reported to the superintendent under division (A) of this section is accurate.

Sec. 3713.07. (A) Registration obtained under this chapter expires annually on the last day of the month in the month that the registration was obtained. The superintendent of ~~labor~~ industrial compliance shall renew the registration in accordance with Chapter 4745. of the Revised Code.

(B) Failure on the part of any registrant to renew registration prior to its expiration, when notified as required in this section, shall not deprive the person of the right to renewal within the ninety days that follow expiration, but the fee to be paid for renewal after its expiration shall be one hundred dollars plus the standard registration fee for the registrant.

(C) If a registrant fails to renew registration within ninety days of the date that it expired, the former registrant shall comply with the registration requirements under section 3713.05 of

the Revised Code to obtain valid registration.

Sec. 3713.08. (A) All persons required to register under division (A) of section 3713.02 of the Revised Code manufacturing, making, or wholesaling bedding or stuffed toys, or both, that are sold or offered for sale shall have the material content of their products tested and analyzed at an established laboratory designated by the superintendent of ~~labor~~ industrial compliance before the bedding or stuffed toys are sold or offered for sale.

(B) Every stuffed toy or item of bedding sold or offered for sale shall have a label affixed to it that reports the contents of the stuffed toy or bedding material in conformity with requirements established by the superintendent, a registration number, and any other identifying information as required by the superintendent.

(C) The seller of any secondhand articles of bedding or stuffed toys shall sanitize all items in accordance with rules established by the superintendent prior to the sale of or the offering for sale of any secondhand articles.

(D) This section does not apply to any of the following:

(1) Persons who meet the qualifications of division (C)(2) or (3) of section 3713.05 of the Revised Code;

(2) The sale of furniture more than fifty years old;

(3) The sale of furniture from the home of the owner directly to the purchaser.

Sec. 3713.09. (A) The superintendent of ~~labor~~ industrial compliance may appoint inspectors and periodically inspect and investigate any establishment where bedding or stuffed toys are manufactured, made, remade, renovated, repaired, sanitized, sold, or offered for sale, or where previously used material is

processed for use in the manufacture of bedding or stuffed toys.

(1) Each inspector shall make a written report to the superintendent of each examination and inspection complete with the inspector's findings and recommendations. Inspectors may place "off sale" any article of bedding or stuffed toy offered for sale, or found in the possession of any person with the intent to sell, in violation of section 3713.02 of the Revised Code. Inspectors shall perform other duties related to inspection and examination as prescribed by the superintendent.

(2) When articles are placed "off sale" under division (A)(1) of this section, they shall be tagged, and the tag shall not be removed except by an authorized representative of the division of ~~labor~~ industrial compliance after the violator demonstrates to the satisfaction of the superintendent proof of compliance with the requirements of section 3713.08 of the Revised Code.

(B)(1) When an inspector has cause to believe that any bedding or stuffed toy is not tagged or labeled in accordance with section 3713.08 of the Revised Code, the inspector may open any seam of the bedding or stuffed toy in question to examine the material used or contained within it and take a reasonable amount of the material for testing and analysis and, if necessary, examine any and all purchase records in order to determine the contents or the kind of material used in the bedding or stuffed toy in question. An inspector may seize and hold evidence of any article of bedding, stuffed toy, or material manufactured, made, possessed, renovated, remade, or repaired, sold, or offered for sale contrary to this chapter.

(2) Immediately after seizing articles believed to be in violation of this chapter, the inspector immediately shall report the seizure to the superintendent. The superintendent shall hold a hearing in accordance with Chapter 119. of the Revised Code or make a ruling in the matter. If the superintendent finds that the

article of bedding, stuffed toy, or material is not in violation of this chapter, the superintendent shall order the item or items returned to the owner. If the superintendent finds a violation of this chapter, the superintendent may do either of the following:

(a) Return the articles to the owner for proper treatment, tagging or labeling, or other action as ordered by the superintendent, subject to the requirement that the articles be reinspected at cost to the owner, prior to being sold or offered for sale;

(b) Report the violation to the appropriate prosecuting attorney or city law director.

(C) The superintendent, at reasonable times and upon reasonable notice, may examine or cause to be examined the records of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house to determine compliance with this chapter. The superintendent may enter into contracts, pursuant to procedures prescribed by the superintendent, with persons to examine these records to determine compliance with this chapter. These persons may collect and remit to the superintendent any amounts due under this chapter.

(D) Records audited pursuant to division (C) of this section are confidential and shall not be disclosed except as required by section 149.43 of the Revised Code, or as the superintendent finds necessary for the proper administration of this chapter.

(E) In the case of any investigation or examination, or both, that requires investigation or examination outside of this state of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, or of any mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house, the superintendent may require the investigated or examined

person to pay the actual expense of the investigation or examination. The superintendent shall provide an itemized statement of actual expenses to the investigated or examined person.

(F) Whenever the superintendent has reason to believe, from the superintendent's own information, upon complaint, or otherwise, that any person has engaged in, is engaging in, or is about to engage in any practice prohibited by this chapter, or when the superintendent has reason to believe that it is necessary for public health and safety, the superintendent may do any of the following:

(1) Investigate violations of this chapter, and for that purpose, may subpoena witnesses in connection with the investigation. The superintendent may make application to the appropriate court of common pleas for an order enjoining the violation of this chapter, and upon a showing by the superintendent that any registrant or person acting in a manner that requires registration has violated or is about to violate this chapter, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(2) Compel by subpoena the attendance of witnesses to testify in relation to any matter over which the superintendent has jurisdiction and that is the subject of inquiry and investigation by the superintendent, and require the production of any book, paper, or document pertaining to the matter. In case any person fails to file any statement or report, obey any subpoena, give testimony, or produce any books, records, or papers as required by a subpoena, the court of common pleas of any county in the state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt.

(3) Suspend or revoke the registration of any importer, manufacturer, or wholesaler of stuffed toys or articles of

bedding, mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house;

(4) Submit evidence of the violation or violations to any city prosecutor, city director of law, or prosecuting attorney with authority to prosecute. If the city prosecutor, city director of law, or prosecuting attorney with authority to prosecute fails to prosecute, the superintendent shall submit the evidence to the attorney general who may proceed with the prosecution.

Sec. 3713.10. All money collected under this chapter shall be deposited into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created under section 121.084 of the Revised Code.

Sec. 3714.073. (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code the following fees:

(1) A fee of twelve and one-half cents per cubic yard or twenty-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code;

(2) A fee of thirty-seven and one-half cents per cubic yard or seventy-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the recycling and litter prevention fund created in section ~~1502.02~~ 3736.03 of the Revised Code.

(B) The owner or operator of a construction and demolition

debris facility or a solid waste facility, as a trustee of the state, shall collect the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section and may enter into an agreement for the quarterly payment of the fees in the manner established in division (B) of that section for the quarterly payment of the fee that is levied under division (A)(1) of that section.

(C) The money that is collected from a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state not later than forty-five days after the receipt of the money to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(1) The materials are placed within the limits of

construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(2) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3715.01. (A) As used in this chapter:

(1) ~~"Public health council" means the public health council established by section 3701.33 of the Revised Code.~~

~~(2)~~ "Person" means an individual, partnership, corporation, or association.

~~(3)~~(2) "Food" means:

(a) Articles used for food or drink for humans or animals;

(b) Chewing gum;

(c) Articles used for components of any such articles.

~~(4)~~(3) "Drug" means:

(a) Articles recognized in the United States pharmacopoeia and national formulary, or any supplement to them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals;

(d) Articles intended for use as a component of any of the foregoing articles, other than devices or their components, parts, or accessories.

~~(5)~~(4) "Device," except when used in division (B)(1) of this section and in division (A)(10) of section 3715.52, division (F) of section 3715.60, division (A)(5) of section 3715.64, and division (C) of section 3715.67 of the Revised Code, means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is any of the following:

(a) Recognized in the United States pharmacopoeia and national formulary, or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease in humans or animals;

(c) Intended to affect the structure or any function of the body of humans or animals, and that does not achieve any of its principal intended purposes through chemical action within or on the body of humans or animals and is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

~~(6)~~(5) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance;

(b) Articles intended for use as a component of any such article, except that "cosmetic" does not include soap.

~~(7)~~(6) "Label" means a display of written, printed, or graphic matter upon the immediate container, exclusive of package liners, of any article.

Any word, statement, or other information required by this chapter to appear on the label must appear on the outside container or wrapper, if any, of the retail package of the article, or the label must be easily legible through the outside container or wrapper.

~~(8)~~(7) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers;

(b) Accompanying such article.

~~(9)~~(8) "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

~~(10)~~(9) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof;

(b) Any drug the composition of which is such that the drug, as a result of investigation to determine its safety for use under such conditions, has become so recognized, but that has not, other than in an investigation, been used to a material extent or for a material time under such conditions.

~~(11)~~(10) "Contaminated with filth" applies to any food, drug, device, or cosmetic that has not been protected as far as may be necessary by all reasonable means from dust, dirt, and all foreign

or injurious substances.

~~(12)~~(11) "Honey" means the nectar and saccharine exudation of plants that has been gathered, modified, and stored in a honeycomb by honeybees.

~~(13)~~(12) "Finished dosage form" means the form of a drug that is, or is intended to be, dispensed or administered to humans or animals and requires no further manufacturing or processing other than packaging, reconstituting, or labeling.

~~(14)~~(13)(a) "Manufacture" means the planting, cultivating, harvesting, processing, making, preparing, or otherwise engaging in any part of the production of a drug by propagating, compounding, converting, or processing, either directly or indirectly by extracting from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes the following:

(i) Any packaging or repackaging of the drug or labeling or relabeling of its container, the promotion and marketing of the drug, and other activities incident to production;

(ii) The preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, licensed health professionals authorized to prescribe drugs, or other persons.

(b) "Manufacture" does not include the preparation, compounding, packaging, or labeling of a drug by a pharmacist as an incident to either of the following:

(i) Dispensing a drug in the usual course of professional practice;

(ii) Providing a licensed health professional authorized to prescribe drugs with a drug for the purpose of administering to patients or for using the drug in treating patients in the

professional's office.

~~(15)~~(14) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.

~~(16)~~(15) "Generically equivalent drug" means a drug that contains identical amounts of the identical active ingredients, but not necessarily containing the same inactive ingredients, that meets the identical compendial or other applicable standard of identity, strength, quality, and purity, including potency, and where applicable, content uniformity, disintegration times, or dissolution rates, as the prescribed brand name drug and the manufacturer or distributor holds, if applicable, either an approved new drug application or an approved abbreviated new drug application unless other approval by law or from the federal food and drug administration is required.

No drug shall be considered a generically equivalent drug for the purposes of this chapter if it has been listed by the federal food and drug administration as having proven bioequivalence problems.

~~(17)~~(16) "Licensed health professional authorized to prescribe drugs" and "prescriber" have the same meanings as in section 4729.01 of the Revised Code.

~~(18)~~(17) "Home" means the primary residence occupied by the residence's owner, on the condition that the residence contains only one stove or oven used for cooking, which may be a double oven, designed for common residence usage and not for commercial usage, and that the stove or oven be operated in an ordinary kitchen within the residence.

~~(19)~~(18) "Potentially hazardous food" means a food that is natural or synthetic, to which any of the following apply:

(a) It has a pH level greater than 4.6 when measured at seventy-five degrees fahrenheit or twenty-four degrees celsius.

(b) It has a water activity value greater than 0.85.

(c) It requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of clostridium botulinium, or in the case of raw shell eggs, the growth of salmonella enteritidis.

~~(20)~~(19) "Cottage food production operation" means a person who, in the person's home, produces food items that are not potentially hazardous foods, including bakery products, jams, jellies, candy, fruit butter, and similar products specified in rules adopted pursuant to section 3715.025 of the Revised Code.

(B) For the purposes of sections 3715.52 to 3715.72 of the Revised Code:

(1) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequence which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

(2) The provisions regarding the selling of food, drugs, devices, or cosmetics include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such

articles in the conduct of any food, drug, or cosmetic establishment. The provisions do not prohibit a licensed health professional authorized to prescribe drugs from administering or personally furnishing a drug or device to a patient.

(3) The representation of a drug, in its labeling or advertisement, as an antiseptic is a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use that involves prolonged contact with the body.

(4) Whenever jurisdiction is vested in the director of agriculture or the state board of pharmacy, the jurisdiction of the board shall be limited to the sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the wholesale and retail levels or to the consumer and shall be exclusive in the case of such sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the wholesale and retail levels or to the consumer in any place where prescriptions are dispensed or compounded.

(5) To assist in effectuating the provisions of those sections, the director of agriculture or state board of pharmacy may request assistance or data from any government or private agency or individual.

Sec. 3715.025. (A) A cottage food production operation shall not process acidified foods, low acid canned foods, or potentially hazardous foods.

(B) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the food items a cottage food production operation may produce that are in addition to the food items identified by name in division (A)~~(20)~~(19) of section 3715.01 of the Revised Code. The director

shall not adopt rules that permit a cottage food production operation to produce any food that is a potentially hazardous food.

Sec. 3715.60. Food is misbranded within the meaning of sections 3715.01, 3715.02, 3715.022, and 3715.52 to 3715.72 of the Revised Code, if:

(A) Its labeling is false or misleading in any particular.

(B) It is offered for sale under the name of another food.

(C) Its container is so made, formed, or filled as to be misleading.

(D) It is an imitation of another food, unless its label bears in type of uniform size and prominence, the word "imitation," and immediately thereafter the name of the food imitated.

(E) When it is in package form, it does not bear a label containing:

(1) The name and place of business of the manufacturer, packer, or distributor;

(2) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that reasonable variations shall be permitted, and exemptions as to small packages shall be established by rules adopted by the director of agriculture;

(3) In the case of food subject to section 3715.023 of the Revised Code, the information specified in that section.

(F) Any word, statement, or other information required by or under authority of sections 3715.01, 3715.02, and 3715.52 to 3715.72 of the Revised Code, to appear on the label or labeling is not prominently placed thereon with such conspicuousness as

compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(G) It purports to be, or is represented as, a food for which a definition and standard of identity have been prescribed by statute, or by any rule adopted under an existing statute, or by rule as provided by section 3715.02 of the Revised Code, unless:

(1) It conforms to such definition and standard.

(2) Its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such statute or rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(H) It purports to be or is represented as:

(1) A food for which a standard of quality has been prescribed by rule as provided by section 3715.02 of the Revised Code and its quality falls below the standard unless its label bears, in the manner and form that the rules specify, a statement that it falls below the standard;

(2) A food for which a standard or standards of fill of container have been prescribed by rule as provided by section 3715.02 of the Revised Code, and it falls below the standard of fill of container applicable thereto, unless its label bears, in the manner and form that the rules specify, a statement that it falls below the standard.

(I) It is not subject to the provisions of division (G) of this section, unless it bears labeling clearly giving:

(1) The common or usual name of the food, if any;

(2) In case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices,

flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that, to the extent that compliance with the requirements of division (I)(2) of this section is impractical or results in deception or unfair competition, exemptions shall be established by rules adopted by the director; and provided that these requirements shall not apply to any carbonated beverage of which a full and correct statement of the ingredients, to the extent prescribed by division (I)(2) of this section, has been filed under oath with the director.

(J) It purports to be or is represented to be for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as is provided by rules ~~proposed~~ adopted by the director ~~and adopted by the public health council~~, as necessary, in order to fully inform purchasers as to its value for such uses.

(K) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this division is impracticable, exemptions shall be established by rules ~~proposed~~ adopted by the director ~~and adopted by the public health council~~.

Sec. 3715.61. (A) Whenever the director of agriculture finds after investigation that the distribution in this state of any class of food may, by reason of contamination with microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, and in such case only, ~~he~~ the director shall ~~propose regulations for adoption by the public health council~~ adopt rules providing for the issuance, to manufacturers, processor, or

packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the director as provided by such ~~regulations~~ rules.

(B) The director is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the director shall, immediately after prompt hearing and on inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

(C) The director shall have access to any factory or establishment, the operator of which holds a permit from the director for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

Sec. 3715.62. Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be unsafe for purposes of the application of division (B) of section 3715.59 of the Revised Code, but when such substance is so required or cannot be so avoided, the director of

agriculture shall ~~propose regulations for adoption by the public health council~~ adopt rules limiting the quantity therein or thereon to such extent as the director finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of division (B) of section 3715.59 of the Revised Code. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of division (A) of section 3715.59 of the Revised Code. In determining the quantity of such added substance to be tolerated in or on different articles of food, the director shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

Sec. 3715.68. (A) An advertisement of food, drug, device, or cosmetic is false if it is false or misleading in any particular.

(B) For the purpose of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, tuberculosis, tumors, typhoid, uremia, venereal disease, is also false, except that no advertisement not in violation of division (A) of this section is false under this division if it is disseminated only to members of

the medical, dental, pharmaceutical, or veterinary profession, or appears only in the scientific periodicals of these professions; provided, that whenever the director of agriculture determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the director shall ~~propose regulations for adoption by the public health council~~ adopt rules authorizing the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the director may deem necessary in the interests of public health; provided, that this division shall not be construed as indicating that self-medication for diseases other than those named in this section is safe or efficacious.

Sec. 3715.87. (A) As used in this section and in sections 3715.871, 3715.872, and 3715.873 of the Revised Code:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Health care facility" has the same meaning as in section 1337.11 of the Revised Code.

(3) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(4) "Nonprofit clinic" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides health care services to indigent and uninsured persons as defined in section 2305.234 of the Revised Code. "Nonprofit clinic" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a facility that is operated for profit.

(5) "Prescription drug" means any drug to which the following applies:

(a) Under the "Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend, "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription.

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

(B) The state board of pharmacy shall establish a drug repository program to accept and dispense prescription drugs donated or given for the purpose of being dispensed to individuals who are residents of this state and meet eligibility standards established in rules adopted by the board under section 3715.873 of the Revised Code. Except as provided in division (C) of this section, all of the following conditions shall apply to the program:

(1) Only drugs in their original sealed and tamper-evident unit dose packaging may be accepted and dispensed;

(2) The packaging must be unopened, except that drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is undisturbed;

(3) ~~Drugs donated by individuals bearing an expiration date that is less than six months from the date the drug is donated shall not be accepted or dispensed;~~

~~(4)~~ A drug shall not be accepted or dispensed if there is reason to believe that it is adulterated as described in section 3715.63 of the Revised Code.

(C) Orally administered cancer drugs that are not controlled substances and that do not require refrigeration, freezing, or storage at a special temperature may be accepted and dispensed even if not in original sealed and tamper-evident unit dose packaging, subject to rules adopted by the board pursuant to section 3715.873 of the Revised Code.

(D) Subject to the limitations specified in divisions (B) and (C) of this section, unused drugs dispensed for purposes of the medicaid program may be accepted and dispensed under the drug repository program.

Sec. 3716.01. As used in sections 3716.01 to 3716.07, inclusive, of the Revised Code:

(A) "Department" means the department of health.

(B) "Director" means the director of health.

(C) "Person" includes an individual, partnership, corporation, or association.

(D) "Hazardous substance" means any substance or mixture of substances which is toxic, corrosive, an irritant, strong sensitizer, flammable, or which generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or illness during any customary or reasonably anticipated handling or use.

(E) "Toxic" applies to any substance which has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface.

(F)(1) "Highly toxic" means any substance which falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of

fifty milligrams or less per kilogram of body weight, when orally administered;

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas, vapor, mist, or dust provided such concentration is likely to be encountered by ~~man~~ a human being when the substance is used in any reasonably foreseeable manner;

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four hours or less.

(2) If the director finds that available data on human experience with any substance indicates results different from those obtained on animals in the above named dosages or concentrations, the human data shall take precedence.

(G) "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces.

(H) "Irritant" means any substance not corrosive within the meaning of division (G) of this section which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(I) "Strong sensitizer" means any substance which will cause on normal living tissue, through an allergic or photodynamic process, a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the director. Before designating any substance as a strong sensitizer,

the director shall, after public hearing following due notice, find that the frequency of occurrence and severity of the reaction indicate a significant potential for causing hypersensitivity.

(J) "Extremely flammable" applies to any substance which has a flash point at or below twenty degrees Fahrenheit as determined by the tagliabue open cut tester.

(K) "Flammable" applies to any substance which has a flash point of above twenty degrees to and including eighty degrees Fahrenheit, as determined by the tagliabue open cut tester; except that the flammability of the contents of self-pressurized containers shall be determined by methods generally applicable to such containers and established by regulation of the ~~public health council~~ director.

(L) "Label" means a display of written, printed, or graphic matter upon or attached to the immediate package or container of any substance. Any word, statement, or other information required by sections 3716.01 to 3716.07, inclusive, of the Revised Code, to appear on the label must also appear (1) on the outside container or wrapper, if any, unless it is easily legible through the outside container or wrapper, and (2) on all accompanying literature where there are directions for use, written or otherwise.

(M) "Immediate container" does not include package liners.

(N) "Misbranded package" means any container of a hazardous substance intended or suitable for household use which fails to bear a label:

(1) Which states conspicuously:

(a) The name and place of business of the manufacturer, packer, or distributor;

(b) The common or usual name, or the chemical name or the

recognized generic name (not trade name only) of the hazardous substance or of each component which contributes substantially to its hazard;

(c) The signal word "DANGER" on substances which are extremely flammable, corrosive, or which:

(i) Produce death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of one gram or less per kilogram of body weight, when orally administered;

(ii) Produce death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of two thousand parts per million by volume of gas, vapor, mist, or dust, provided such concentration is likely to be encountered by ~~man~~ a human being when the substances are used in any reasonably foreseeable manner;

(iii) Produce death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of one gram or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four hours or less;

(iv) If the director finds that available data on human experience with any substance indicates results different from those obtained on animals in the above named dosages or concentrations, ~~he~~ the director may require the use of the signal word "DANGER" on such substance or permit use of the signal word "WARNING" or "CAUTION" on such substance.

(d) The signal word "WARNING" or "CAUTION" on all other hazardous substances;

(e) An affirmative statement of the principal hazard or hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard;

(f) Precautionary measures describing the action to be followed or avoided;

(g) Instructions, when necessary, for the first-aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure;

(h) The word "poison" for any hazardous substance which is defined as "highly toxic" by division (F) of this section;

(i) Instructions for handling and storage of packages which require special care in handling or storage;

(j) The statement "Keep out of the reach of children," or its practical equivalent.

(2) On which any statements required under division (N) (1) of this section are located prominently and are in the English language in legible type in contrast by typography, layout, or color with other printed matter on the label.

The ~~public health council~~ director shall, by regulations, provide for minimum information which shall appear on the labels for small packages, which labels need not include all of the information required by this section. The director may permit less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded package" does not apply to packages of economic poisons subject to the "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 135, nor to packages of foods, drugs, and cosmetics subject to the "Federal Food, Drug, and Cosmetic Act," nor to sections 3715.01 to 3715.72, inclusive, of the Revised Code.

Sec. 3716.03. The director of health shall:

(A) ~~Propose and submit regulations for adoption by the public health council, subject to sections 119.01 to 119.13, inclusive,~~ Adopt rules in accordance with Chapter 119. of the Revised Code~~,~~ for the efficient enforcement of section 3716.02 of the Revised Code;

(B) Conduct examinations, inspections, and investigations for the purpose of establishing such regulations, through such officers of the department of health or the boards of health, as ~~he~~ the director delegates;

(C) Designate officers and employees to enter at reasonable times any factory, warehouse, or establishment in which hazardous substances are held, or to enter any vehicle being used to transport or hold such hazardous substance:

(1) For the purpose of determining the nature of such substances;

(2) To inspect or copy all records showing the movement of any such hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; provided, evidence obtained under this subdivision shall not be used in a criminal prosecution of the person from whom obtained;

(D) Inspect and sample, upon tender of reasonable price for such sample, at reasonable times and within reasonable limits and in a reasonable manner, finished hazardous substances in retail packages and labeling thereon in such factory, warehouse, establishment, or vehicle.

Sec. 3717.01. As used in this chapter:

(A) "Ohio uniform food safety code" means the food safety and

related standards adopted under section 3717.05 of the Revised Code.

(B) "Food" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption. "Food" includes ice, water or any other beverage, food ingredients, and chewing gum.

(C) "Retail food establishment" means a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Except when expressly provided otherwise, "retail food establishment" includes a mobile retail food establishment, seasonal retail food establishment, and temporary retail food establishment.

As used in this division:

(1) "Retail" means the sale of food to a person who is the ultimate consumer.

(2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received.

(D) "Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period.

(E) "Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.23 of the Revised Code.

(F) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this division, "served" means a response made to an

order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

Except when expressly provided otherwise, "food service operation" includes a catering food service operation, food delivery sales operation, mobile food service operation, seasonal food service operation, temporary food service operation, and vending machine location.

(G) "Catering food service operation" means a food service operation where food is prepared for serving at a function or event held at an off-premises site, for a charge determined on a per-function or per-event basis.

(H) "Food delivery sales operation" means a food service operation from which individual portions of food are ordered by a customer, prepared at another food service operation or a retail food establishment, and delivered to the customer by a person other than an employee of the food service operation or retail food establishment that prepared the food.

(I) "Mobile food service operation" means a food service operation that is operated from a movable vehicle, portable structure, or watercraft and that routinely changes location, except that if the operation remains at any one location for more than forty consecutive days, the operation is no longer a mobile food service operation. "Mobile food service operation" includes a food service operation that does not remain at any one location for more than forty consecutive days and serves, in a manner consistent with division (F) of this section, only frozen desserts; beverages, nuts, popcorn, candy, or similar confections; bakery products identified in section 911.01 of the Revised Code; or any combination of those items.

(J) "Seasonal food service operation" means a food service operation, other than a mobile food service operation, that is operated for not more than six months in a licensing period.

(K) "Temporary food service operation" means a food service operation that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.43 of the Revised Code.

(L) "Vending machine location" means an area or room where one or more vending machines are installed and operated, except that if the machines within an area are separated by more than one hundred fifty feet, each area separated by that distance constitutes a separate vending machine location. As used in this division, "vending machine" means a self-service device that automatically dispenses on the insertion of currency, tokens, or similar means a predetermined unit serving of food, either in bulk or in package, without having to be replenished after each use.

(M) "Board of health" means a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

(N) "Government entity" means this state, a political subdivision of this state, another state, or a political subdivision or other local government body of another state.

(O) "Licensor" means one of the following:

(1) A board of health approved under section 3717.11 of the Revised Code;

(2) The director of agriculture acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of retail food establishments;

(3) The director of health acting pursuant to section 3717.11

of the Revised Code with respect to the licensing of food service operations.

(P) "Licensing period" means the first day of March to the last day of February of the next succeeding year.

(Q) "Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than forty consecutive days, the establishment is no longer a mobile retail food establishment.

(R) "Unprocessed," when used with respect to fruits and vegetables, means that the fruits and vegetables are not processed beyond merely rough trimming and rinsing.

(S) "Cottage food production operation" has the same meaning as in division (A)~~(20)~~(19) of section 3715.01 of the Revised Code.

Sec. 3717.04. The director of agriculture~~, the public health council,~~ and the director of health have the exclusive power in this state to adopt rules regarding retail food establishments and food service operations. The rules adopted under this chapter shall be applied uniformly throughout this state.

All rules adopted under this chapter shall be adopted in accordance with Chapter 119. of the Revised Code. Subject to the approval of the joint committee on agency rule review, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to food safety.

Sec. 3717.05. (A) The director of agriculture and the ~~public~~ director of health ~~council~~ shall adopt rules establishing standards for safe food handling and sanitation in retail food establishments and food service operations. The rules shall be compiled as the Ohio uniform food safety code, which shall be used

by the licensors of retail food establishments and food service operations in ensuring the safe handling of food in this state. All scientific provisions of the Ohio uniform food safety code that are relevant to both retail food establishments and food service operations shall be adopted by the director of agriculture and the ~~public~~ director of health ~~council~~ with each other's concurrence.

The Ohio uniform food safety code shall include the following:

(1) Criteria for sanitation in retail food establishments and food service operations;

(2) Criteria for equipment in retail food establishments and food service operations;

(3) Criteria for reviewing the facility layout and equipment specifications of retail food establishments and food service operations;

(4) A definition of "potentially hazardous" as it pertains to food in retail food establishments and to food in food service operations;

(5) Criteria to be used in evaluating the primary business of a person or government entity for purposes of determining whether the person or entity should be licensed as a retail food establishment or food service operation.

(B)(1) Except as provided in division (B)(2) of this section, if a model food code is established by the United States food and drug administration, the Ohio uniform food safety code shall be based on the most current version of the food and drug administration's model food code. If the food and drug administration adopts, modifies, or rescinds a provision in the model food code, not later than twelve months after the administration's action, the director of agriculture and ~~public~~

director of health ~~council~~ shall adopt, amend, or rescind provisions in the Ohio uniform food safety code to ensure that it continues to conform with the model food code.

(2) The Ohio uniform food safety code may contain or omit provisions that do not correspond to the food and drug administration's model food code if the director of agriculture or the ~~public~~ director of health ~~council~~, with each other's concurrence, determines either of the following:

(a) That rules can be adopted under this chapter that provide protection at least as effective as that which would be provided by basing the rules on the model food code;

(b) That local conditions warrant the adoption of standards that are different from the model food code.

Sec. 3717.07. (A) For purposes of establishing a licensing fee under sections 3717.25 and 3717.45 of the Revised Code, the director of agriculture and the ~~public~~ director of health ~~council~~ shall adopt rules establishing uniform methodologies for use in calculating the costs of licensing retail food establishments in the categories specified by the director of agriculture and the costs of licensing food service operations in the categories specified by the ~~council~~ director of health. In adopting the rules, the director of agriculture and the ~~public~~ director of health ~~council~~ shall consider any recommendations received from advisory boards or other entities representing the interests of retail food establishments and food service operations.

(B) The rules shall include provisions that do all of the following:

(1) Provide for calculations to be made according to fiscal years rather than licensing periods;

(2) Limit the direct costs that may be attributed to the use

of sanitarians by establishing appropriate statewide averages that may not be exceeded;

(3) Limit the indirect costs that may be included in the calculation of fees to an amount that does not exceed thirty per cent of the cost of the licensing program;

(4) Provide for a proportionate reduction in the fees to be charged if a licensor included anticipated costs in the immediately preceding calculation of licensing fees and the total amount of the anticipated costs was not incurred;

(5) Provide for a proportionate reduction in the fees to be charged if it is discovered through an audit by the auditor of state or through any other means that the licensor has charged or is charging a licensing fee that exceeds the amount that should have been charged;

(6) Provide for a twenty per cent reduction in the fees to be charged when the reduction is imposed as a penalty under division (C) of section 3717.071 of the Revised Code;

(7) With regard to any fees charged for licensing vending machine locations, the rules shall prohibit a licensor from increasing fees by a percentage of increase over the previous year's fee that exceeds the percentage of increase in the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics, for the immediately preceding calendar year.

Sec. 3717.45. (A) A licensor may charge fees for issuing and renewing food service operation licenses. Any licensing fee charged shall be used solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Any licensing fee charged under this section shall be based on the licensor's costs of regulating food service operations, as determined according to the uniform methodologies established under section 3717.07 of the Revised Code. If the licensor is a board of health, a fee may be disapproved by the district advisory council in the case of a general health district or the legislative authority of the city in the case of a city health district. A disapproved fee shall not be charged by the board of health.

Except when a licensing fee is established as an emergency measure, the licensor shall hold a public hearing regarding the proposed fee. At least twenty days prior to holding a public hearing, the licensor shall give written notice of the hearing to each person or government entity holding a food service operation license that may be affected by the proposed fee. The notice shall be mailed to the last known address of the licensee and shall specify the date, time, and place of the hearing and the amount of the proposed fee. On request, the licensor shall provide the completed uniform methodology used in the calculation of the licensor's costs and the proposed fee.

(B) In addition to licensing fees, a licensor may charge fees for the following:

(1) Review of facility layout and equipment specifications pertaining to food service operations, other than mobile and temporary food service operations, or similar reviews conducted for vending machine locations;

(2) Any necessary collection and bacteriological examination of samples from food service operations, or similar services specified in rules adopted under this chapter by the ~~public~~ director of health ~~council~~;

(3) Attendance at a course of study offered by the licensor

in food protection as it pertains to food service operations, if the course is approved under section 3717.09 of the Revised Code.

(C)(1) The ~~public health council~~ director may determine by rule an amount to be collected from applicants for food service operation licenses for use ~~by the director of health~~ in administering and enforcing the provisions of this chapter and the rules adopted under it applicable to food service operations. Licensors shall collect the amount prior to issuing an applicant's new or renewed license. If a licensing fee is charged under this section, the licensor shall collect the amount at the same time the fee is collected. Licensors are not required to provide notice or hold public hearings regarding amounts to be collected.

(2) A licensor shall certify the amount collected under division (C)(1) of this section and transmit the amount to the treasurer of state according to the following schedule:

(a) For amounts received by the licensor on or after the first day of January but not later than the thirty-first day of March, transmit the amounts not later than the fifteenth day of May;

(b) For amounts received by the licensor on or after the first day of April but not later than the thirtieth day of June, transmit the amounts not later than the fifteenth day of August;

(c) For amounts received by the licensor on or after the first day of July but not later than the thirtieth day of September, transmit the amounts not later than the fifteenth day of November;

(d) For amounts received by the licensor on or after the first day of October but not later than the thirty-first day of December, transmit the amounts not later than the fifteenth day of February of the following year.

(3) All amounts received under division (C)(2) of this

section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code. The director shall use the amounts solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

~~(4) The director may submit recommendations to the public health council regarding the amounts collected under division (C)(1) of this section. When making recommendations, the director shall submit a report stating the current and projected expenses of administering and enforcing the provisions of this chapter and the rules adopted under it applicable to food service operations and the total of all amounts that have been deposited in the general operations fund pursuant to division (C)(3) of this section. The director may include in the report any recommendations for modifying the department's administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.~~

Sec. 3717.51. Pursuant to section 3717.04 of the Revised Code, the ~~public~~ director of health ~~council~~ shall adopt rules regarding food service operations, as follows:

(A) Licensing categories for food service operations and licensing requirements for each category;

(B) Standards and procedures, including a schedule of frequency, for conducting inspections of food service operations;

(C) Standards and procedures for conducting investigations of complaints pertaining to food service operations;

(D) Procedures to be used by the director of health in approving courses of study for persons seeking certification in food protection, standards that must be met to receive and maintain the director's approval, and procedures for withdrawing

the director's approval of a course if the standards for approval are no longer being met;

(E) Standards for the provision of assistance to choking victims;

(F) Any other matter the ~~council~~ director considers relevant to the administration and enforcement of the provisions of this chapter applicable to food service operations.

Sec. 3718.02. (A) The ~~public~~ director of health ~~council~~, in accordance with Chapter 119. of the Revised Code, shall adopt, and subsequently may amend and rescind, rules of general application throughout the state to administer this chapter. Rules adopted under division (A) of this section shall do at least all of the following:

(1) Require that the appropriate board of health approve or disapprove the installation, operation, and alteration of a sewage treatment system if it is not connected to a sanitary sewerage system;

(2) Require a board of health, or other person as established by rule, to conduct a site evaluation for any proposed installation of a sewage treatment system;

(3) Prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of sewage treatment systems that may be used in this state and for the progressive or incremental alteration or repair of an existing sewage treatment system or the progressive or incremental installation of a new system to replace an existing sewage treatment system. The rules shall be adopted so as to establish a preference for the repair of an existing sewage treatment system, when technically and economically feasible, rather than its replacement with a new system. The standards shall include at a

minimum all of the following:

(a) Soil absorption specifications and vertical separation distances.

(i) Soil absorption specifications established in rules shall include standards regarding the sizing of sewage treatment systems in use in the state.

(ii) In establishing soil absorption specifications and vertical separation distances, the rules shall identify those soil conditions that present a low or moderate risk of inadequate treatment or dispersal of sewage from sewage treatment systems. For low and moderate risk conditions, the required vertical separation distance shall not exceed eighteen inches except as authorized pursuant to rules adopted under divisions (A)(3)(a)(iii) and (iv) of this section.

In addition, the rules shall identify those soil conditions that present a high risk of inadequate treatment or dispersal of sewage. For such high risk conditions, the vertical separation distance shall be set at a depth from twenty-four to thirty-six inches and shall not be lowered unless a reduction of vertical separation is granted in accordance with rules adopted under division (A)(3)(a)(iii) of this section.

(iii) The rules shall establish options to be utilized by a board of health when approving the reductions of or compliance with vertical separation distances that are established in rules adopted under division (A)(3)(a)(ii) of this section. The options for a board of health in providing such approval shall include, but not be limited to: the use where deemed appropriate for a particular site of subsurface interceptor drains, perimeter drains, or engineered drainage; pretreatment of sewage; or soil elevation.

(iv) The rules shall provide that a board of health may

petition the director to increase the vertical separation distances required for sewage treatment systems in the applicable health district or a portion of the district when conditions present a high risk of inadequate treatment or dispersal of sewage. The rules also shall provide that the director may approve such a request upon a demonstration by the board of health that unusual or unique local conditions relating to terrain, bedrock, water table, soil fragments, or soil textures require the establishment of greater vertical separation distances within the jurisdiction of the board of health or a portion thereof. If, under the rules, the director of health approves a greater vertical separation distance, a board of health still may approve a reduction of that vertical separation distance for an individual sewage treatment system pursuant to rules adopted under division (A)(3)(a)(iii) of this section. Further, if, under the rules, the director approves a greater vertical separation distance, a person who is denied permission by a board of health to install or replace a sewage treatment system as a result of the director's approval may request a hearing in accordance with section 3718.11 of the Revised Code.

(b) Specifications for the quality of treated sewage effluent from household sewage treatment systems that is applied to soil on the property where a household sewage treatment system is located. The specifications established in the rules for the quality of effluent from discharging systems shall comply with discharge requirements imposed by the national pollutant discharge elimination system permit program established under section 6111.03 of the Revised Code and rules adopted under it.

(c) Requirements for the reasonable maintenance of a system according to maintenance requirements approved by the director of health as recommended by the sewage treatment system technical advisory committee or according to accepted standards and

practices established in rules, as applicable. The requirements may include standards for service contracts or other arrangements that assure regular maintenance and upkeep of the system. In determining the reasonableness of a maintenance requirement, the director shall consider a manufacturer's maintenance requirements as well as all other maintenance alternatives.

(4) Prescribe procedures for notification to boards of health of the approval of a sewage treatment system or components of a system by the director of health under section 3718.04 of the Revised Code;

(5) Prescribe criteria and procedures under which boards of health shall issue installation permits, operation permits, and alteration permits for sewage treatment systems. The rules shall require as a condition of an installation permit that the installer of a system must warrant that the system was installed in accordance with all applicable rules and design requirements. In addition, the rules shall require a board of health, not later than sixty days after the issuance of an installation, operation, or alteration permit, to notify the director that the permit was issued. The rules shall require the notification to be in a format prescribed by the director and to include information related to the issuance of the permit. With the assistance of the department of health, a board of health, to the extent practicable, shall computerize the process of the issuance of permits for sewage treatment systems.

(6) Require a board of health to inspect a sewage treatment system not later than twelve months after its installation to ensure that the system is operating properly. The rules shall require a board of health, not later than sixty days after the inspection, to certify to the director on a form provided by the director that the inspection was performed.

(7) Require each board of health to develop a program for the

administration of maintenance requirements established in rules adopted under division (A)(3)(c) of this section. The rules shall include requirements and procedures under which a person may demonstrate the required maintenance of a system in lieu of having an inspection conducted when an inspection otherwise is required. The rules shall require a board of health to provide written notice to a person that is demonstrating maintenance of a system in lieu of an inspection that if proof of the required maintenance of the system is not provided as required by rules, the system is subject to inspection by the board and the reasonable cost of the inspection must be paid by the person. The rules shall authorize a board of health to inspect any sewage treatment system if there is a good-faith complaint regarding the system, there is probable cause for the inspection, or proof of the required maintenance of the system has not been provided as required by rules. In addition, the rules shall authorize a board of health to inspect a sewage treatment system without prior notice in any instance in which the board has probable cause to believe that the system is endangering or threatening to endanger public health. The rules shall require that the reasonable costs for sewage effluent testing or evaluation be paid by the owner of a sewage treatment system that is being investigated. Further, the rules shall establish a methodology for determining the reasonable costs of an inspection in accordance with section 3709.09 of the Revised Code. The rules shall allow, but shall not require, a board of health to continue an inspection program that was established by the board prior to the effective date of the rules, provided that the program authorizes a person to demonstrate the required maintenance of a system in lieu of an inspection.

(8) Require a board of health to register installers, service providers, and septage haulers that perform work within the health district; prescribe criteria and procedures for the registration; and prescribe criteria for a demonstration of competency as a part

of the registration. The rules shall establish uniform statewide bonding requirements or other financial security requirements for installers, service providers, and septage haulers as a condition of registration within any health district. The rules shall establish a methodology by which the required amount of a bond or other security may be calculated for each installer, service provider, and septage hauler. The methodology, at a minimum, shall consider the number of systems installed or serviced and the type of system installed or serviced by an installer, service provider, or septage hauler on an annual basis. The rules shall provide that no board of health shall require an additional or different bond or security requirement as a condition of registration beyond the bonding and security requirements established in the rules adopted under division (A)(8) of this section.

The rules shall establish a cost methodology for determining the fee for the registration of an installer, service provider, or septage hauler in any health district.

(9) Prescribe requirements for the collection, transportation, disposal, and land application of domestic septage in this state from a sewage treatment system;

(10) Require boards of health to maintain records that are determined necessary to ascertain compliance with this chapter and the rules adopted under it;

(11) Require the manufacturer of a sewage treatment system that is authorized for use in this state in rules adopted under this section or that is approved for use in this state under section 3718.04 of the Revised Code to provide instructions for the operation and maintenance of the system. The rules shall provide that a board of health may require a copy of a manufacturer's instructions for the operation and maintenance of a system to be filed with the board prior to the installation and use of the system in the health district in which the board has

jurisdiction. In addition, the rules shall require a board of health and a manufacturer to provide a copy of the operation and maintenance instructions, if available, when a board of health or a manufacturer receives a written request for instructions.

(12) Prescribe criteria for the provision of written evidence of compliance with rules pertaining to sewage treatment for purposes of sections 711.05 and 711.10 of the Revised Code;

(13) Pursuant to divisions (A)(1) and (3) of this section, prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems that may be used in this state;

(14) Prescribe minimum criteria and procedures under which boards of health may establish household sewage treatment district management programs for the purpose of providing a responsive approach toward preventing or solving sewage treatment problems resulting from household sewage treatment systems within the districts established under the program. For purposes of division (A)(14) of this section, a board of health may enter into a contract with any entity to administer a household sewage treatment district management program.

(15) Prescribe standards for the use of subsurface interceptor drains, perimeter drains, and engineered drainage to remove or divert any subsurface water from an area to be used for soil absorption of sewage in the soil of a sewage treatment system;

(16) Prescribe standards for the inspection of septage hauling truck tanks by boards of health, including, but not limited to, tank seal safety specifications;

(17) Establish standards and testing methods to ensure that all septic tanks, other disposal component tanks, dosing tanks, pump vaults, household sewage treatment disposal system holding

tanks and privy vaults, or other applicable sewage disposal system components manufactured after ~~the effective date of this section~~ September 17, 2010, and used in this state are watertight and structurally sound;

(18) Require a board of health to give notice and an opportunity for a hearing, pursuant to section 3718.11 of the Revised Code, to an affected property owner regarding any of the following:

(a) The denial of an installation, operation, or alteration permit for a sewage treatment system;

(b) The imposition of a condition on the installation of a sewage treatment system;

(c) The required replacement of a sewage treatment system;

(d) Any other final order or decision of a board of health that is made under this chapter concerning which a property owner is claiming to be aggrieved or adversely affected.

The rules also shall establish procedures for giving such notice and for conducting the hearing required in rules adopted under division (A)(18) of this section.

(19) Prescribe standards for the regulation of gray water recycling systems;

(20) Prohibit a sewage treatment system from causing a public health nuisance;

(21) Define economic impact for purposes of division (B) of this section and section 3718.022 of the Revised Code.

The ~~council~~ director may adopt other rules under division (A) of this section that ~~it~~ the director determines are necessary to implement this chapter and to protect the public health and welfare.

At least sixty days prior to adopting a rule under division

(A) of this section, the ~~council~~ director shall provide boards of health and any other interested parties an opportunity to comment on the rule.

(B)(1) In accordance with section 3709.20 or 3709.21 of the Revised Code, as applicable, and subject to review by and approval of the director under division (C) of section 3718.05 of the Revised Code, a board of health may adopt rules necessary for the public health providing for more stringent standards than those established in rules ~~of the public health council~~ adopted by the director under division (A) of this section. In proposing or adopting the rules, a board of health shall consider and document the economic impact of the rules on property owners within the applicable health district.

(2) A board that intends to adopt rules shall notify the department of health of the proposed rules and submit a copy of the proposed rules and the documentation of the economic impact of the rules at least ninety days prior to the proposed date of adoption. The director shall approve or disapprove any such proposed rule within ninety days after receiving a copy of the proposed rule from the board of health.

(3) In reviewing a proposed rule, the director shall approve the rule if all of the following apply:

(a) The proposed rule is not in conflict with this chapter or rules adopted under it.

(b) The proposed rule is authorized by division (B) of this section.

(c) The proposed rule is no less stringent than rules adopted by the ~~public health council~~ director.

(d) Unless otherwise authorized by this chapter or rules adopted under it, the proposed rule does not require design changes to a sewage treatment system, or component thereof, that

differ from a design authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section 3718.04 of the Revised Code.

(e) The proposed rule does not require operation or maintenance procedures for a sewage treatment system that conflict with operation or maintenance procedures authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section 3718.04 of the Revised Code.

(4) If a board of health fails to submit a proposed rule to the director or fails to demonstrate that the board has considered the economic impact of the proposed rule, the rule shall have no force or effect and is not enforceable.

Sec. 3718.021. (A) A board of health may regulate the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems in accordance with rules adopted by the ~~public~~ director of health ~~council~~ under division (A)(13) of section 3718.02 of the Revised Code. If a board of health chooses to regulate small flow on-site sewage treatment systems, the board first shall send written notification to the director of health and the director of environmental protection.

(B) If a board of health chooses to regulate small flow on-site sewage treatment systems under division (A) of this section and later determines that it no longer wants to regulate those systems, the board shall notify the director of health and the director of environmental protection. Upon the receipt of the notification by the director of environmental protection, the board of health shall cease regulating small flow on-site sewage

treatment systems, and the environmental protection agency shall regulate those systems.

(C) If after a survey conducted under section 3718.07 of the Revised Code the director of health finds that a board of health that has chosen to regulate small flow on-site sewage treatment systems is not complying with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code, the director shall notify the director of environmental protection and the board of health. Upon receipt of the notification, the board shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

Sec. 3718.022. Notwithstanding any provision in this chapter to the contrary, in adopting rules under division (A) of section 3718.02 of the Revised Code, the ~~public~~ director of health ~~council~~ shall consider the economic impact of the rules on property owners, the state of available technology, and the nature and economics of the available ~~alteratives~~ alternatives.

Sec. 3718.05. The director of health shall do all of the following:

(A) Administer and enforce this chapter and the rules ~~of the public health council~~ adopted under it;

(B) Examine records of boards of health, in accordance with rules adopted by the ~~council~~ director, that are determined necessary to ascertain compliance with this chapter and rules adopted under it;

(C) Review and approve or disapprove rules proposed by boards of health under division (B) of section 3718.02 of the Revised Code. The director shall not disapprove a proposed rule unless the director determines that the proposed rule conflicts with this chapter or rules adopted under division (A) of section 3718.02 of

the Revised Code ~~by the public health council~~ or fails to promote public health or environmental protection. If the director disapproves a proposed rule, the director shall provide a written explanation of the director's disapproval to the board of health that proposed the rule.

(D) Survey boards of health as required by section 3718.07 of the Revised Code;

(E) Develop with the sewage treatment system technical advisory committee standards, guidelines, and protocols for use by the director in approving or disapproving a sewage treatment system under section 3718.04 of the Revised Code and an application form for use by applicants for that approval, including identification of the information that must be included with the form;

(F) Provide instructions on the operation and maintenance of a sewage treatment system. The director shall provide the operation and maintenance instructions on the department of health's web site. In addition, the director shall provide a copy of the operation and maintenance instructions when the director receives a written request for the instructions.

(G) Develop educational programs, in conjunction with boards of health, to educate owners of sewage treatment systems regarding the proper operation and maintenance of those systems.

Sec. 3718.06. (A)~~(1)~~ A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules adopted under it, including fees for installation permits, operation permits, and alteration permits issued by the board. All fees so established and collected by the board shall be deposited in a special fund of the district to be used exclusively by the board in carrying out those duties.

~~(2)~~(B) In accordance with Chapter 119. of the Revised Code, the ~~public~~ director of health ~~council~~ may establish by rule a fee to be collected from applicants for installation permits and alteration permits issued under rules adopted under this chapter. The director of health shall use not more than seventy-five per cent of the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the ~~council~~ director. The director shall use not less than twenty-five per cent of the proceeds from that fee to establish a program in cooperation with boards of health to fund installation and evaluation of sewage treatment system new technology pilot projects through grants or other agreements. In the selection of pilot projects, the director shall consult with the sewage treatment system technical advisory committee. A board of health shall collect and transmit the fee to the director pursuant to section 3709.092 of the Revised Code.

~~(B) The director may submit recommendations to the public health council regarding the amount of the fee collected under division (A)(2) of this section for installation and alteration permits. When making the recommendations, the director shall submit a report stating the current and projected expenses of administering and enforcing this chapter and the rules adopted under it and of the sewage treatment system new technology pilot projects program established under this section and the total of all money that has been deposited to the credit of the general operations fund under division (A)(2) of this section. The director may include in the report any recommendations for modifying the requirements established under this chapter and the rules adopted under it by the council.~~

Sec. 3718.07. The director of health shall survey each city and general health district at least once every three years to determine whether there is substantial compliance with the

requirements of this chapter pertaining to health districts and the applicable rules adopted by the ~~public health council~~ director under this chapter. Upon determining that there is substantial compliance, the director shall place the district on an approved list. The director may resurvey an approved district if it is determined by the director to be necessary and may remove from the list a district that is found not to be substantially complying with the requirements of this chapter pertaining to health districts and the applicable rules.

If the director determines that a district is not eligible to be placed on the approved list or to continue on the list after a resurvey, the director shall certify that determination to the board of health, and the director shall carry out the duties of the unapproved health district under this chapter and the applicable rules adopted under it within the district or shall contract with an approved health district to conduct those duties until the unapproved district is placed on or returned to the approved list. The director or the contracting district shall have within the unapproved district the authority to exercise powers and perform duties granted to or imposed on the board under this chapter and the applicable rules adopted under it.

Until the unapproved district is placed on or returned to the approved list, the director or the contracting district shall collect all fees payable to the board of health under this chapter and all such fees previously paid to the unapproved district that have not been expended or encumbered. The director shall deposit those fees in the state treasury to the credit of a special fund, which is hereby created, to be used by the director for the purpose of carrying out the duties of the unapproved health district under this chapter and the applicable rules adopted under it. A contracting district shall deposit those fees to the credit of its fund created under section 3718.06 of the Revised Code to

be used by the district for the purpose of carrying out the duties of the unapproved district under this chapter and the applicable rules adopted under it. The director or contracting district shall repay to the unapproved district any balance remaining in the applicable fund from all sources when the unapproved district is placed on or returned to the approved list by the director.

If a health district is removed from the approved list under this section and the board of health of the district is regulating small flow on-site sewage treatment systems in the district under section 3718.021 of the Revised Code, the director of environmental protection shall regulate those systems in that district in accordance with division (C) of that section.

Sec. 3718.09. (A) A board of health may issue, modify, suspend, or revoke enforcement orders to a registration or permit holder or other person directing the holder or person to abate a violation of this chapter, any rule adopted or order issued under it, or a condition of a registration or permit issued under it within a specified, reasonable time. If an order issued under this division is neglected or disregarded, the applicable board of health may proceed in accordance with section 3707.02 of the Revised Code.

(B) The health commissioner or the commissioner's designated representative, without prior notice or hearing and in accordance with ~~the~~ rules ~~of~~ adopted by the ~~public~~ director of health ~~council~~, may issue an emergency order requiring any action necessary to meet a public health emergency or to prevent or abate an imminent and substantial threat to surface water or ground water regarding domestic septage management or regarding a sewage treatment system that is being operated in a manner that does not comply with this chapter or rules adopted under it. A person to whom such an emergency order is issued immediately shall comply

with the order. A person so ordered may apply to the issuer of the order for a hearing, which shall be held as soon as possible, but not later than twenty days after the issuer's receipt of the application for a hearing.

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 3721.99 of the Revised Code:

(1)(a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section ~~3702.522~~ 3702.521 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or

5122.01 of the Revised Code;

(ii) A residential facility ~~for mentally ill persons~~ as defined ~~under~~ in section 5119.22 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

(iv) ~~An adult care facility as defined in section 5119.70 of the Revised Code;~~

~~(v)~~ An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;

~~(vi)~~(v) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

~~(vii)~~(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code ~~unless section 5123.192 of the Revised Code makes the facility subject to the requirements of this chapter~~;

~~(viii)~~(vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

~~(ix)~~(viii) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

~~(x)~~(ix) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of

medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the

home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home or district home operated under Chapter 5155. of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ may further classify homes. For the purposes of this chapter, any residence, institution, hotel, congregate housing project, or similar facility that meets the definition of a home under this section is such a home regardless of how the facility holds itself out to the public.

(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(D) Nothing in division (A)(4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.

Nothing in division (A)(5) of this section shall be construed to permit personal care services to be imposed on an individual who is capable of performing the activity in question without assistance.

(E) Division (A)(1)(c)~~(ix)~~(viii) of this section does not prohibit a facility, infirmary, or other entity described in that

division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

(F) Nothing in this chapter, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

Sec. 3721.011. (A) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility may do the following:

(1) Provide the following skilled nursing care to its residents:

(a) Supervision of special diets;

(b) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;

(c) Subject to division (B)(1) of this section, administration of medication.

(2) Subject to division (C) of this section, provide other skilled nursing care on a part-time, intermittent basis for not more than a total of one hundred twenty days in a twelve-month period;

(3) Provide skilled nursing care for more than one hundred twenty days in a twelve-month period to a resident when the requirements of division (D) of this section are met.

A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section.

(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication:

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;

(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(c) A medication aide certified under Chapter 4723. of the Revised Code;

(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and

surgery.

(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:

(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(C) Except as provided in division (D) of this section, a residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. In accordance with Chapter 119. of the Revised Code, the ~~public~~ director of health ~~council~~ shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The ~~council~~ director shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of job and family

services for the medicaid program established under Chapter 5111. of the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D)(1) A residential care facility may admit or retain an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician;

(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code.

(2) The agreement required by division (D)(1) of this section shall include all of the following provisions:

(a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the

individual's needs can be met at the facility;

(b) That the individual will be retained in the facility only if periodic redeterminations are made that the individual's needs are being met at the facility;

(c) That the redeterminations will be made according to a schedule specified in the agreement;

(d) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the individual's needs;

(e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine.

(E) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) As used in this section, "residential facility" means a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance

of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

~~(B)~~(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as ~~an adult care~~ a residential facility pursuant to ~~Chapter 5119.~~ section 5119.22 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as ~~an adult care~~ a residential facility.

~~(C)~~(D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and ~~an adult care~~ a residential facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one

group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

~~(D)~~(E)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

~~(E)~~(F)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is

conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.03. (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

(B) The director of health shall enforce the provisions of sections 3721.01 to 3721.13 and 3721.99 of the Revised Code and may issue orders to secure compliance with the provisions of these sections and the rules adopted under them. The director may hold hearings, issue subpoenas, compel testimony, and make adjudications.

The director may issue an order revoking a license in the event the director finds, upon hearing or opportunity afforded pursuant to Chapter 119. of the Revised Code, that any of the following apply to a person, county home, or district home

licensed under section 3721.07 of the Revised Code:

(1) Has violated any of the provisions of Chapter 3721. of the Revised Code or rules adopted by the ~~public health council~~ director under it;

(2) Has violated any order issued by the director;

(3) Is not, or any of its principals are not suitable, morally or financially to operate such an institution;

(4) Is not furnishing humane, kind, and adequate treatment and care;

(5) Has had a long-standing pattern of violations of this chapter or the rules adopted under it that has caused physical, emotional, mental, or psychosocial harm to one or more residents.

Upon the issuance of any order of revocation, the person whose license is revoked, or the county home or district home that has its license revoked, may appeal in accordance with Chapter 119. of the Revised Code.

(C) Once the director notifies a person, county home, or district home licensed to operate a home that the license may be revoked or issues any order under this section, the person, county home, or district home shall not assign or transfer to another person or entity the right to operate the home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person, county home, or district home that the prohibition has been lifted.

If a license is revoked under this section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or entity is void.

On revocation of a license, the former licensee shall take all necessary steps to cease operation of the home.

The director of health shall not accept a certificate of need application under section 3702.52 of the Revised Code regarding a home if the license to operate the home has been revoked under this section.

Sec. 3721.032. The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the ~~public~~ director of health ~~council~~ are empowered to adopt. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.

Sec. 3721.04. (A) The ~~public~~ director of health ~~council~~ shall adopt and publish rules governing the operation of homes, which shall have uniform application throughout the state, and shall prescribe standards for homes with respect to, but not limited to, the following matters:

(1) The minimum space requirements for occupants and equipping of the buildings in which homes are housed so as to ensure healthful, safe, sanitary, and comfortable conditions for all residents, so long as they are not inconsistent with Chapters 3781. and 3791. of the Revised Code or with any rules adopted by the board of building standards and by the state fire marshal;

(2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the

qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term care facilities, as defined in that section;

(3) The medical, rehabilitative, and recreational services to be provided by each class of home;

(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;

(5) The personal and social services to be provided by each class of home;

(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;

(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;

(8) The standards and procedures to be followed by residential care facilities in admitting and retaining a resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;

(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.

(B) The ~~public health council~~ director may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.

(C) The following apply to the ~~public health council~~ director when adopting rules under division (A)(1) of this section regarding the equipping of the buildings in which homes are housed:

(1) The rules shall not require that each resident sleeping room, or a percentage of the resident sleeping rooms, have a

bathtub or shower that is directly accessible from or exclusively for the room.

(2) The rules shall require that the privacy and dignity of residents be protected when the residents are transported to and from bathing facilities, prepare for bathing, and bathe.

(D) The following apply to the ~~public health council~~ director when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:

(1) When adopting rules applicable to residential care facilities, the ~~public health council~~ director shall take into consideration the effect that the following may have on the number of personnel needed:

(a) Provision of personal care services;

(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code;

(c) Provision of skilled nursing care to residents pursuant to division (D) of section 3721.011 of the Revised Code.

(2) When adopting rules applicable to nursing homes, the ~~public health council~~ director shall require each nursing home to do both of the following:

(a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner;

(b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident:

(i) Registered nurses, including registered nurses who perform administrative and supervisory duties;

(ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties;

(iii) Nurse aides.

(3) The rules prescribing qualifications of nurse aides used by long-term care facilities, as those terms are defined in section 3721.21 of the Revised Code, shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under ~~sections~~ section 1819 ~~and 1919~~ of the "Social Security Act," ~~49~~ 101 Stat. ~~620~~ 1330-160 (~~1935~~ 1987), 42 U.S.C. ~~301~~ 1395i-3, as amended, and section 1919 of the "Social Security Act," 101 Stat. 1330-182 (1987), 42 U.S.C. 1396r, as amended.

(E) The following apply to the director when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in nursing homes or rules under division (A)(5) of this section regarding social services to be provided by nursing homes:

(1) The rules shall not prescribe the number of individuals licensed as social workers under Chapter 4757. of the Revised Code that a nursing home with one hundred twenty or fewer beds must employ.

(2) The rules shall require each nursing home with more than one hundred twenty beds to employ on a full-time basis one individual licensed as a social worker under Chapter 4757. of the Revised Code.

(3) The rules shall require each nursing home to offer its residents medically related social services that assist the residents in attaining or maintaining their highest practicable physical, mental, and psychosocial well-being.

Sec. 3721.07. Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the

applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, the following requirements or conditions are satisfied or complied with:

(A) The applicant has not been convicted of a felony or a crime involving moral turpitude;

(B) The applicant is not violating any of the rules ~~made~~ adopted by the ~~public~~ director of health ~~council~~ or any order issued by the director ~~of health~~;

(C) The applicant has not had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code because of any act or omission that jeopardized a resident's health, welfare, or safety nor has the applicant had a long-standing pattern of violations of this chapter or rules adopted under it that caused physical, emotional, mental, or psychosocial harm to one or more residents.

(D) The buildings in which the home is housed have been approved by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code.

(E) The applicant, if it is an individual, or the principal participants, if it is an association or a corporation, is or are suitable financially and morally to operate a home;

(F) The applicant is equipped to furnish humane, kind, and adequate treatment and care;

(G) The home does not maintain or contain:

(1) Facilities for the performance of major surgical procedures;

(2) Facilities for providing therapeutic radiation;

(3) An emergency ward;

(4) A clinical laboratory unless it is under the supervision of a clinical pathologist who is a licensed physician in this state;

(5) Facilities for radiological examinations unless such examinations are performed only by a person licensed to practice medicine, surgery, or dentistry in this state.

(H) The home does not accept or treat outpatients, except upon the written orders of a physician licensed in this state, maternity cases, boarding children, and does not house transient guests, other than participants in an adult day-care program, for twenty-four hours or less;

(I) The home is in compliance with sections 3721.28 and 3721.29 of the Revised Code.

When the director issues a license, the license shall remain in effect until revoked by the director or voided at the request of the applicant; provided, there shall be an annual renewal fee payable during the month of January of each calendar year. Any licensed home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that the renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the home's license.

If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked or the license of a county home or district home to operate as a residential care facility has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked, and a county home or district home that has its license as a residential care facility revoked other than

under division (B)(5) of section 3721.03 of the Revised Code, for any reason other than nonpayment of the license renewal fee or late fees shall not be issued a new license under this chapter until a period of one year following the date of revocation has elapsed.

Any applicant who is denied a license may appeal in accordance with Chapter 119. of the Revised Code.

Sec. 3721.071. The buildings in which a home is housed shall be equipped with both an automatic fire extinguishing system and fire alarm system. Such systems shall conform to standards set forth in the regulations of the board of building standards and the state fire marshal.

The time for compliance with the requirements imposed by this section shall be January 1, 1975, except that the date for compliance with the automatic fire extinguishing requirements is extended to January 1, 1976, provided the buildings of the home are otherwise in compliance with fire safety laws and regulations and:

(A) The home within thirty days after August 4, 1975, files a written plan with the state fire marshal's office that:

(1) Outlines the interim safety procedures which shall be carried out to reduce the possibility of a fire;

(2) Provides evidence that the home has entered into an agreement for a fire safety inspection to be conducted not less than monthly by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer;

(3) Provides verification that the home has entered into a valid contract for the installation of an automatic fire extinguishing system or fire alarm system, or both, as required to

comply with this section;

(4) Includes a statement regarding the expected date for the completion of the fire extinguishing system or fire alarm system, or both.

(B) Inspections by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer are initiated no later than sixty days after August 4, 1975, and are conducted no less than monthly thereafter, and reports of the consultant, fire department, or fire prevention officer identifying existing hazards and recommended corrective actions are submitted to the state fire marshal, the division of ~~labor~~ industrial compliance in the department of commerce, and the department of health.

It is the express intent of the general assembly that the department of job and family services shall terminate payments under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, to those homes which do not comply with the requirements of this section for the submission of a written fire safety plan and the deadline for entering into contracts for the installation of systems.

Sec. 3721.121. (A) As used in this section:

(1) "Adult day-care program" means a program operated pursuant to rules adopted by the ~~public~~ director of health ~~council~~ under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.

(2) "Applicant" means a person who is under final consideration for employment with a home or adult day-care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not

include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" ~~and "older adult" have~~ has the same ~~meanings~~ meaning as in section 109.572 of the Revised Code.

(4) "Home" means a home as defined in section 3721.10 of the Revised Code.

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

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check ~~with respect to~~ of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records

check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

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

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

this section.

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A home or adult day-care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of

division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home or program about the individual's criminal record.

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the home or program the fee it pays under division (D)(1) of this section.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or

operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section;

(6) The board of nursing for purposes of accepting and processing an application for a medication aide certificate issued under Chapter 4723. of the Revised Code.

(F) In accordance with section 3721.11 of the Revised Code, the director of health shall adopt rules to implement this section. The rules shall specify circumstances under which a home or adult day-care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director.

(G) The chief administrator of a home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good

faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates

that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home or adult day-care program. If a home or adult day-care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of

this section applies regarding the conditional employment.

Sec. 3721.13. (A) The rights of residents of a home shall include, but are not limited to, the following:

(1) The right to a safe and clean living environment pursuant to the medicare and medicaid programs and applicable state laws and ~~regulations prescribed~~ rules adopted by the ~~public~~ director of health ~~council~~;

(2) The right to be free from physical, verbal, mental, and emotional abuse and to be treated at all times with courtesy, respect, and full recognition of dignity and individuality;

(3) Upon admission and thereafter, the right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care consistent with the program for which the resident contracted. This care shall be provided without regard to considerations such as race, color, religion, national origin, age, or source of payment for care.

(4) The right to have all reasonable requests and inquiries responded to promptly;

(5) The right to have clothes and bed sheets changed as the need arises, to ensure the resident's comfort or sanitation;

(6) The right to obtain from the home, upon request, the name and any specialty of any physician or other person responsible for the resident's care or for the coordination of care;

(7) The right, upon request, to be assigned, within the capacity of the home to make the assignment, to the staff physician of the resident's choice, and the right, in accordance with the rules and written policies and procedures of the home, to select as the attending physician a physician who is not on the staff of the home. If the cost of a physician's services is to be

met under a federally supported program, the physician shall meet the federal laws and regulations governing such services.

(8) The right to participate in decisions that affect the resident's life, including the right to communicate with the physician and employees of the home in planning the resident's treatment or care and to obtain from the attending physician complete and current information concerning medical condition, prognosis, and treatment plan, in terms the resident can reasonably be expected to understand; the right of access to all information in the resident's medical record; and the right to give or withhold informed consent for treatment after the consequences of that choice have been carefully explained. When the attending physician finds that it is not medically advisable to give the information to the resident, the information shall be made available to the resident's sponsor on the resident's behalf, if the sponsor has a legal interest or is authorized by the resident to receive the information. The home is not liable for a violation of this division if the violation is found to be the result of an act or omission on the part of a physician selected by the resident who is not otherwise affiliated with the home.

(9) The right to withhold payment for physician visitation if the physician did not visit the resident;

(10) The right to confidential treatment of personal and medical records, and the right to approve or refuse the release of these records to any individual outside the home, except in case of transfer to another home, hospital, or health care system, as required by law or rule, or as required by a third-party payment contract;

(11) The right to privacy during medical examination or treatment and in the care of personal or bodily needs;

(12) The right to refuse, without jeopardizing access to

appropriate medical care, to serve as a medical research subject;

(13) The right to be free from physical or chemical restraints or prolonged isolation except to the minimum extent necessary to protect the resident from injury to self, others, or to property and except as authorized in writing by the attending physician for a specified and limited period of time and documented in the resident's medical record. Prior to authorizing the use of a physical or chemical restraint on any resident, the attending physician shall make a personal examination of the resident and an individualized determination of the need to use the restraint on that resident.

Physical or chemical restraints or isolation may be used in an emergency situation without authorization of the attending physician only to protect the resident from injury to self or others. Use of the physical or chemical restraints or isolation shall not be continued for more than twelve hours after the onset of the emergency without personal examination and authorization by the attending physician. The attending physician or a staff physician may authorize continued use of physical or chemical restraints for a period not to exceed thirty days, and at the end of this period and any subsequent period may extend the authorization for an additional period of not more than thirty days. The use of physical or chemical restraints shall not be continued without a personal examination of the resident and the written authorization of the attending physician stating the reasons for continuing the restraint.

If physical or chemical restraints are used under this division, the home shall ensure that the restrained resident receives a proper diet. In no event shall physical or chemical restraints or isolation be used for punishment, incentive, or convenience.

(14) The right to the pharmacist of the resident's choice and

the right to receive pharmaceutical supplies and services at reasonable prices not exceeding applicable and normally accepted prices for comparably packaged pharmaceutical supplies and services within the community;

(15) The right to exercise all civil rights, unless the resident has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code and has not been restored to legal capacity, as well as the right to the cooperation of the home's administrator in making arrangements for the exercise of the right to vote;

(16) The right of access to opportunities that enable the resident, at the resident's own expense or at the expense of a third-party payer, to achieve the resident's fullest potential, including educational, vocational, social, recreational, and habilitation programs;

(17) The right to consume a reasonable amount of alcoholic beverages at the resident's own expense, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies;

(18) The right to use tobacco at the resident's own expense under the home's safety rules and under applicable laws and rules of the state, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies;

(19) The right to retire and rise in accordance with the resident's reasonable requests, if the resident does not disturb others or the posted meal schedules and upon the home's request remains in a supervised area, unless not medically advisable as documented by the attending physician;

(20) The right to observe religious obligations and

participate in religious activities; the right to maintain individual and cultural identity; and the right to meet with and participate in activities of social and community groups at the resident's or the group's initiative;

(21) The right upon reasonable request to private and unrestricted communications with the resident's family, social worker, and any other person, unless not medically advisable as documented in the resident's medical record by the attending physician, except that communications with public officials or with the resident's attorney or physician shall not be restricted. Private and unrestricted communications shall include, but are not limited to, the right to:

(a) Receive, send, and mail sealed, unopened correspondence;

(b) Reasonable access to a telephone for private communications;

(c) Private visits at any reasonable hour.

(22) The right to assured privacy for visits by the spouse, or if both are residents of the same home, the right to share a room within the capacity of the home, unless not medically advisable as documented in the resident's medical record by the attending physician;

(23) The right upon reasonable request to have room doors closed and to have them not opened without knocking, except in the case of an emergency or unless not medically advisable as documented in the resident's medical record by the attending physician;

(24) The right to retain and use personal clothing and a reasonable amount of possessions, in a reasonably secure manner, unless to do so would infringe on the rights of other residents or would not be medically advisable as documented in the resident's medical record by the attending physician;

(25) The right to be fully informed, prior to or at the time of admission and during the resident's stay, in writing, of the basic rate charged by the home, of services available in the home, and of any additional charges related to such services, including charges for services not covered under the medicare or medicaid program. The basic rate shall not be changed unless thirty days' notice is given to the resident or, if the resident is unable to understand this information, to the resident's sponsor.

(26) The right of the resident and person paying for the care to examine and receive a bill at least monthly for the resident's care from the home that itemizes charges not included in the basic rates;

(27)(a) The right to be free from financial exploitation;

(b) The right to manage the resident's own personal financial affairs, or, if the resident has delegated this responsibility in writing to the home, to receive upon written request at least a quarterly accounting statement of financial transactions made on the resident's behalf. The statement shall include:

(i) A complete record of all funds, personal property, or possessions of a resident from any source whatsoever, that have been deposited for safekeeping with the home for use by the resident or the resident's sponsor;

(ii) A listing of all deposits and withdrawals transacted, which shall be substantiated by receipts which shall be available for inspection and copying by the resident or sponsor.

(28) The right of the resident to be allowed unrestricted access to the resident's property on deposit at reasonable hours, unless requests for access to property on deposit are so persistent, continuous, and unreasonable that they constitute a nuisance;

(29) The right to receive reasonable notice before the

resident's room or roommate is changed, including an explanation of the reason for either change.

(30) The right not to be transferred or discharged from the home unless the transfer is necessary because of one of the following:

(a) The welfare and needs of the resident cannot be met in the home.

(b) The resident's health has improved sufficiently so that the resident no longer needs the services provided by the home.

(c) The safety of individuals in the home is endangered.

(d) The health of individuals in the home would otherwise be endangered.

(e) The resident has failed, after reasonable and appropriate notice, to pay or to have the medicare or medicaid program pay on the resident's behalf, for the care provided by the home. A resident shall not be considered to have failed to have the resident's care paid for if the resident has applied for medicaid, unless both of the following are the case:

(i) The resident's application, or a substantially similar previous application, has been denied by the county department of job and family services.

(ii) If the resident appealed the denial pursuant to division (C) of section 5101.35 of the Revised Code, the director of job and family services has upheld the denial.

(f) The home's license has been revoked, the home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code, or the home otherwise ceases to operate.

(g) The resident is a recipient of medicaid, and the home's participation in the medicaid program is involuntarily terminated

or denied.

(h) The resident is a beneficiary under the medicare program, and the home's participation in the medicare program is involuntarily terminated or denied.

(31) The right to voice grievances and recommend changes in policies and services to the home's staff, to employees of the department of health, or to other persons not associated with the operation of the home, of the resident's choice, free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to a residents' rights advocate, and the right to be a member of, to be active in, and to associate with persons who are active in organizations of relatives and friends of nursing home residents and other organizations engaged in assisting residents.

(32) The right to have any significant change in the resident's health status reported to the resident's sponsor. As soon as such a change is known to the home's staff, the home shall make a reasonable effort to notify the sponsor within twelve hours.

(B) A sponsor may act on a resident's behalf to assure that the home does not deny the residents' rights under sections 3721.10 to 3721.17 of the Revised Code.

(C) Any attempted waiver of the rights listed in division (A) of this section is void.

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the Revised Code:

(A) "Long-term care facility" means either of the following:

(1) A nursing home as defined in section 3721.01 of the Revised Code~~, other than a nursing home or part of a nursing home certified as an intermediate care facility for the mentally~~

~~retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended~~;

(2) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act."

(B) "Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

(C) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a resident by physical contact with the resident or by use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in amounts that preclude habilitation and treatment.

(D) "Neglect" means recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident. "Neglect" does not include allowing a resident, at the resident's option, to receive only treatment by spiritual means through prayer in accordance with the tenets of a recognized religious denomination.

(E) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of a resident by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.

(F) "Resident" includes a resident, patient, former resident or patient, or deceased resident or patient of a long-term care facility or a residential care facility.

(G) "Physical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(H) "Chemical restraint" has the same meaning as in section

3721.10 of the Revised Code.

(I) "Nursing and nursing-related services" means the personal care services and other services not constituting skilled nursing care that are specified in rules the ~~public~~ director of health ~~council~~ shall adopt in accordance with Chapter 119. of the Revised Code.

(J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(K)(1) Except as provided in division (K)(2) of this section, "nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation.

(2) "Nurse aide" does not include either of the following:

(a) A licensed health professional practicing within the scope of the professional's license;

(b) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution.

(L) "Licensed health professional" means all of the following:

(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(3) A physician authorized under Chapter 4731. of the Revised

Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;

(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;

(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(9) An optometrist licensed under Chapter 4725. of the Revised Code;

(10) A pharmacist licensed under Chapter 4729. of the Revised Code;

(11) A psychologist licensed under Chapter 4732. of the Revised Code;

(12) A chiropractor licensed under Chapter 4734. of the Revised Code;

(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;

(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.

(M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or

post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.

(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.

(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.

Sec. 3721.28. (A)(1) Each nurse aide used by a long-term care facility on a full-time, temporary, per diem, or other basis on July 1, 1989, shall be provided by the facility a competency evaluation program approved by the director of health under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section. Each long-term care facility using a nurse aide on July 1, 1989, shall provide the nurse aide the preparation necessary to complete the competency evaluation program by January 1, 1990.

(2) Each nurse aide used by a long-term care facility on a full-time, temporary, per diem, or other basis on January 1, 1990, who either was not used by the facility on July 1, 1989, or was used by the facility on July 1, 1989, but had not successfully completed a competency evaluation program by January 1, 1990, shall be provided by the facility a competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section. Each long-term care facility using a nurse aide described in division (A)(2) of this section shall provide the nurse aide the preparation necessary to complete the competency evaluation program by October 1, 1990, and shall assist

the nurse aide in registering for the program.

(B) Effective June 1, 1990, no long-term care facility shall use an individual as a nurse aide for more than four months unless the individual is competent to provide the services ~~he~~ the individual is to provide, the facility has received from the nurse aide registry established under section 3721.32 of the Revised Code the information concerning the individual provided through the registry, and one of the following is the case:

(1) The individual was used by a facility as a nurse aide on a full-time, temporary, per diem, or other basis at any time during the period commencing July 1, 1989, and ending January 1, 1990, and successfully completed, not later than October 1, 1990, a competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section.

(2) The individual has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section or has met the conditions specified in division (F) of this section and, in addition, if the training and competency evaluation program or the training, instruction, or education the individual completed in meeting the conditions specified in division (F) of this section was conducted by or in a long-term care facility, or if the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, the individual has successfully completed a competency evaluation program conducted by the director.

(3) Prior to July 1, 1989, if the long-term care facility is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or prior to January 1,

1990, if the facility is not so certified, the individual completed a program that the director determines included a competency evaluation component no less stringent than the competency evaluation programs approved by ~~him~~ the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section, and was otherwise comparable to the training and competency evaluation programs being approved by the director under division (A) of that section.

(4) The individual is listed in a nurse aide registry maintained by another state and that state certifies that its program for training and evaluation of competency of nurse aides complies with Titles XVIII and XIX of the "Social Security Act" and regulations adopted thereunder.

(5) Prior to July 1, 1989, the individual was found competent to serve as a nurse aide after the completion of a course of nurse aide training of at least one hundred hours' duration.

(6) The individual is enrolled in a prelicensure program of nursing education approved by the board of nursing or by an agency of another state that regulates nursing education, has provided the long-term care facility with a certificate from the program indicating that the individual has successfully completed the courses that teach basic nursing skills including infection control, safety and emergency procedures, and personal care, and has successfully completed a competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code.

(7) The individual has the equivalent of twelve months or more of full-time employment in the preceding five years as a hospital aide or orderly and has successfully completed a competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code.

(C) Effective June 1, 1990, no long-term care facility shall continue for longer than four months to use as a nurse aide an individual who previously met the requirements of division (B) of this section but since most recently doing so has not performed nursing and nursing-related services for monetary compensation for twenty-four consecutive months, unless the individual successfully completes additional training and competency evaluation by complying with divisions (C)(1) and (2) of this section:

(1) Doing one of the following:

(a) Successfully completing a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section;

(b) Successfully completing a training and competency evaluation program described in division (B)(4) of this section;

(c) Meeting the requirements specified in division (B)(6) or (7) of this section.

(2) If the training and competency evaluation program completed under division (C)(1)(a) of this section was conducted by or in a long-term care facility, or if the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, successfully completing a competency evaluation program conducted by the director.

(D)(1) The four-month periods provided for in divisions (B) and (C) of this section include any time, on or after June 1, 1990, that an individual is used as a nurse aide on a full-time, temporary, per diem, or any other basis by the facility or any other long-term care facility.

(2) During the four-month period provided for in division (B) of this section, during which a long-term care facility may, subject to division (E) of this section, use as a nurse aide an

individual who does not have the qualifications specified in divisions (B)(1) to (7) of this section, a facility shall require the individual to comply with divisions (D)(2)(a) and (b) of this section:

(a) Participate in one of the following:

(i) If the individual has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code, and the program was conducted by or in a long-term care facility, or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, a competency evaluation program conducted by the director;

(ii) If the individual is enrolled in a prelicensure program of nursing education described in division (B)(6) of this section and has completed or is working toward completion of the courses described in that division, or the individual has the experience described in division (B)(7) of this section, a competency evaluation program conducted by the director;

(iii) A training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section.

(b) If the individual participates in or has successfully completed a training and competency evaluation program under division (D)(2)(a)(iii) of this section that is conducted by or in a long-term care facility, or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, ~~paticipate~~ participate in a competency evaluation program conducted by the director.

(3) During the four-month period provided for in division (C) of this section, during which a long-term care facility may,

subject to division (E) of this section, use as a nurse aide an individual who does not have the qualifications specified in divisions (C)(1) and (2) of this section, a facility shall require the individual to comply with divisions (D)(3)(a) and (b) of this section:

(a) Participate in one of the following:

(i) If the individual has successfully completed a training and competency evaluation program approved by the director, and the program was conducted by or in a long-term care facility, or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, a competency evaluation program conducted by the director;

(ii) If the individual is enrolled in a prelicensure program of nursing education described in division (B)(6) of this section and has completed or is working toward completion of the courses described in that division, or the individual has the experience described in division (B)(7) of this section, a competency evaluation program conducted by the director;

(iii) A training and competency evaluation program approved or conducted by the director.

(b) If the individual participates in or has successfully completed a training and competency evaluation program under division (D)(3)(a)(iii) of this section that is conducted by or in a long-term care facility, or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, participate in a competency evaluation program conducted by the director.

(E) A long-term care facility shall not permit an individual used by the facility as a nurse aide while participating in a training and competency evaluation program to provide nursing and nursing-related services unless both of the following are the

case:

(1) The individual has completed the number of hours of training that ~~he~~ must ~~complete~~ be completed prior to providing services to residents as prescribed by rules that shall be adopted by the director in accordance with Chapter 119. of the Revised Code;

(2) The individual is under the personal supervision of a registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code.

(F) An individual shall be considered to have satisfied the requirement, under division (B)(2) of this section, of having successfully completed a training and competency evaluation program conducted or approved by the director, if the individual meets both of the following conditions:

(1) The individual, as of July 1, 1989, completed at least sixty hours divided between skills training and classroom instruction in the topic areas described in divisions (B)(1) to (8) of section 3721.30 of the Revised Code;

(2) The individual received, as of that date, at least the difference between seventy-five hours and the number of hours actually spent in training and competency evaluation in supervised practical nurse aide training or regular in-service nurse aide education.

(G) The ~~public health council~~ director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying persons, in addition to the director, who may establish competence of nurse aides under division (B)(5) of this section, and establishing criteria for determining whether an individual meets the conditions specified in division (F) of this section.

(H) The rules adopted pursuant to divisions (E)(1) and (G) of this section shall be no less stringent than the requirements,

guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act."

Sec. 3721.29. In addition to competency evaluation programs and training and competency evaluation programs required by this chapter, each long-term care facility shall provide both of the following to each nurse aide it uses:

(A) An orientation program that includes at least an explanation of the organizational structure of the facility, its policies and procedures, its philosophy of care, a description of its resident population, and an enumeration of its employee rules;

(B) Regular performance review and in-service education to assure that individuals working in the facility as nurse aides are competent to perform the nursing and nursing-related services they perform. In-service education shall include training for nurse aides providing nursing and nursing-related services to residents and patients with cognitive impairments.

The ~~public~~ director of health ~~council~~ shall adopt rules to implement the purposes of this section. The rules shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:

(A) "Bed surrender" means the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes;

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds.

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred;

(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.

(D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.

(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the following:

(1) For fiscal year 2012, eleven dollars and forty-seven cents;

(2) For fiscal year 2013 and each fiscal year thereafter,

eleven dollars and sixty-seven cents.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(I) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(J) ~~"Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.~~

~~(K)~~ "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(L) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.~~

~~(M)~~(K) "Medicare" means the program established by Title XVIII.

~~(N)~~(L) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~(O)~~(M)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include ~~any~~ either of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code~~;~~

~~(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under~~

~~Title XIX~~.

~~(P)~~(N) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

~~(Q)~~(O) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(R)~~(P) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to sections 3721.512, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) Subject to sections 3721.512, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to the franchise permit fee rate multiplied by the

product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(C) If the total amount of the franchise permit fee assessed under divisions (A) and (B) of this section for a fiscal year exceeds the indirect guarantee percentage of the actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year and seventy-five per cent or more of the combined total number of nursing homes and hospital long-term care units receive enhanced medicaid payments or other state payments equal to seventy-five per cent or more of their total franchise permit fee assessments, do both of the following:

(1) Recalculate the assessments under divisions (A) and (B) of this section using a per bed per day rate equal to the indirect guarantee percentage of actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under divisions (A) and (B) of this section and the amount recalculated under division (C)(1) of this section as a credit against the assessments imposed under divisions (A) and (B) of this section for the subsequent fiscal year.

(D) If the United States centers for medicare and medicaid

services determines that the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, take all necessary actions to cease implementation of sections 3721.50 to 3721.58 of the Revised Code in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3723.06. (A) The director of health shall license radon testers, mitigation specialists, and mitigation contractors. Each applicant for a license shall submit a completed application to the director on a form the director shall prescribe and furnish.

(B) In accordance with rules adopted ~~by the public health council~~ under section 3723.09 of the Revised Code, the director shall issue the appropriate license to each applicant that pays the license fee prescribed by the ~~council~~ director, meets the licensing criteria established by the ~~council~~ director, and complies with any other licensing and training requirements established by the ~~council~~ director. An individual, business entity, or government entity may hold more than one license issued under this section, but a separate application is required for each license.

(C) Notwithstanding division (B) of this section, the director shall issue a radon mitigation contractor license on request to the holder of a radon mitigation specialist license if the license holder is the owner or chief stockholder of a business entity for which ~~he~~ the license holder is the only individual who will work as a radon mitigation specialist. The licensing criteria and any other licensing and training requirements the individual was required to meet to qualify for the radon mitigation specialist license are hereby deemed to satisfy any and all criteria and requirements for a radon mitigation contractor

license. A license issued under this division shall expire at the same time as the individual's radon mitigation specialist license. No license fee shall be imposed for a license issued under this division.

(D) A license issued under this section expires biennially and may be renewed by the director in accordance with criteria and procedures established ~~by the public health council~~ in rules adopted under section 3723.09 of the Revised Code and on payment of the license renewal fee prescribed ~~by the council~~ in those rules.

(E) In accordance with Chapter 119. of the Revised Code, the director may do either of the following:

(1) Refuse to issue a license to an individual, business entity, or government entity that does not meet the requirements of this chapter or the rules adopted under it or has been in violation of those requirements;

(2) Suspend, revoke, or refuse to renew the license of an individual, business entity, or government entity that is or has been in violation of the requirements of this chapter or the rules adopted under it.

Sec. 3723.07. The director of health shall approve all of the following:

(A) Licensure training courses for radon testers and mitigation specialists;

(B) Training courses for employees of mitigation contractors;

(C) Radon laboratories.

Each applicant for approval shall submit a completed application to the director on a form the director shall prescribe and furnish.

In accordance with rules adopted ~~by the public health council~~ under section 3723.09 of the Revised Code, the director shall issue the appropriate approval to each applicant that pays the approval fee prescribed by the ~~council~~ director and meets the criteria for approval established by the ~~council~~ director.

In accordance with Chapter 119. of the Revised Code, the director may refuse to issue an approval and may revoke or suspend an approval issued under this section if the operator of the course or laboratory fails to meet the criteria established by the ~~public health council~~ director.

Sec. 3723.09. (A) To protect the health of individuals inhabiting, occupying, or frequenting buildings, the ~~public~~ director of health ~~council~~ shall adopt rules to implement the requirements of this chapter. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The ~~public health council~~ director shall adopt rules establishing criteria and procedures ~~to be followed by the director of health in~~ for issuing and renewing licenses under section 3723.06 of the Revised Code to radon testers, mitigation specialists, and mitigation contractors. The rules may require that all applicants for licensure as a radon tester or mitigation specialist pass an examination. If an examination is required, the rules may require applicants to pass an examination conducted by the department or an appropriate examination conducted by the United States environmental protection agency.

(C) The ~~public health council~~ director shall adopt rules establishing criteria and procedures ~~to be followed by the director of health in~~ for approving training courses under section 3723.07 of the Revised Code. The rules may require that participants in training courses pass an examination conducted by

the operator of the course and may require that the examinations be approved by the director ~~of health~~.

(D) The ~~public health council~~ director shall adopt rules establishing criteria and procedures ~~to be followed by the director of health in~~ for approving radon laboratories under section 3723.07 of the Revised Code.

(E) The ~~public health council~~ director shall adopt rules establishing reasonable fees for licenses, license renewals, radon laboratory approvals, and training course approvals.

(F) The ~~public health council~~ director shall adopt rules establishing standards to be followed by licensed radon testers, mitigation specialists, and mitigation contractors for the prevention of hazards to the public health, including standards for worker protection, record keeping, and training of employees of licensed radon mitigation contractors.

(G) The ~~public health council~~ director shall adopt rules establishing procedures to be followed by any individual, business entity, or government entity licensed by another state to practice as a radon tester, mitigation specialist, or mitigation contractor in providing notice to the director of health prior to commencing practice in this state pursuant to section 3723.03 of the Revised Code.

(H) The ~~public health council~~ director may adopt rules that require licensed radon testers and mitigation specialists to report to the director ~~of health~~, by street address, radon test results that indicate the presence of radon at a level considered to be dangerous as determined by the ~~council~~ director. The rules may require the reporting of screening measurements, follow-up measurements, post-mitigation measurements, and, if it is known that radon mitigation has been performed, the methods of mitigation that were used. Any information required to be reported

to the director under these rules is not a public record under section 149.43 of the Revised Code, and shall not be released except in aggregate statistical form.

Sec. 3725.02. (A) No person other than a hospital shall collect plasma, regardless of the use for which the plasma is intended, except at a plasmapheresis center holding a current, valid certificate of approval issued by the director of health.

Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(B) The ~~public health council~~ director shall adopt such rules as are necessary to carry out this chapter.

Sec. 3727.01. (A) As used in this section, "health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the following:

(1) Provides or otherwise makes available to enrolled participants health care services including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive service, and out-of-area coverage;

(2) Is compensated, except for copayments, for the provision of basic health care services to enrolled participants by a payment that is paid on a periodic basis without regard to the date the health care services are provided and that is fixed without regard to the frequency, extent, or kind of health service actually provided;

(3) Provides physician services primarily in either of the following ways:

(a) Directly through physicians who are either employees or partners of the organization;

(b) Through arrangements with individual physicians or one or more groups of physicians organized on a group-practice or individual-practice basis.

(B) As used in this chapter:

(1) "Children's hospital" ~~has the same meaning as in section 3702.51 of the Revised Code~~ means any of the following:

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (B)(1)(a) of this section.

(2) "Hospital" means an institution classified as a hospital under section 3701.07 of the Revised Code in which are provided to inpatients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than twenty-four hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under Chapter 3721. of the Revised Code, a health care

facility operated by the department of mental health or the department of developmental disabilities, a health maintenance organization that does not operate a hospital, the office of any private licensed health care professional, whether organized for individual or group practice, or a clinic that provides ambulatory patient services and where patients are not regularly admitted as inpatients. "Hospital" also does not include an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(3) "Joint commission" means the commission formerly known as the joint commission on accreditation of healthcare organizations or the joint commission on accreditation of hospitals.

Sec. 3727.42. (A) Every hospital shall compile and make available for inspection by the public a price information list containing the information specified in division (B) of this section and shall periodically update the list to maintain current information. The price information list shall be compiled and made available in a format that complies with the electronic transaction standards and code sets adopted by the United States secretary of health and human services under 42 U.S.C. 1320d-2.

(B) Each price information list required by division (A) of this section shall contain all of the following information:

(1) The usual and customary room and board charges for each level of care within the hospital, including but not limited to

private rooms, semiprivate rooms, other multiple patient rooms, and intensive care and other specialty units;

(2) Rates charged for nursing care, if the hospital charges separately for nursing care;

(3) The usual and customary charges, stated separately for inpatients and outpatients if different charges are imposed, for any of the following services provided by the hospital:

(a) The thirty most common x-ray and radiological procedures;

(b) The thirty most common laboratory procedures;

(c) Emergency room services;

(d) Operating room services;

(e) Delivery room services;

(f) Physical, occupational, and pulmonary therapy services;

(g) Any other services designated as high volume services by a rule which shall be adopted by the ~~public~~ director of health ~~council~~.

(4) The hospital's billing policies, including whether the hospital charges interest on an amount not paid in full by any person or government entity and the interest rate charged;

(5) Whether or not the charges listed include fees for the services of hospital-based anesthesiologists, radiologists, pathologists, and emergency room physicians and, if a charge does not include such fees, how such fee information can be obtained.

(C) Every hospital shall do all of the following with the price information list required by this section:

(1) At the time of admission, or as soon as practical thereafter, inform each patient of the availability of the list and on request provide the patient with a free copy of the list;

(2) On request, provide a paper copy of the list to any

person or governmental agency, subject to payment of a reasonable fee for copying and processing;

(3) Make the list available free of charge on the hospital's internet web site.

Sec. 3729.01. As used in this chapter:

(A) "Camp operator" means the operator of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

(B) "Campsite user" means a person who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

(C) "Combined park-camp" means any tract of land upon which a combination of five or more self-contained recreational vehicles or portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities. A tract of land that is subdivided for lease or other contract of the individual lots is a combined park-camp if a combination of five or more recreational vehicles or portable camping units are placed on it for recreation, vacation, or business purposes.

"Combined park-camp" does not include any tract of land used solely as a temporary park-camp or solely as a manufactured home park.

(D) "Dependent recreational vehicle" means a recreational vehicle other than a self-contained recreational vehicle. "Dependent recreational vehicle" includes a park model.

(E) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or

drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a recreational vehicle park, recreation camp, or combined park-camp, for which plan review is required under division (A) of section 3729.03 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(F) "Director of health" means the director of health or the director's authorized representative.

(G) "Flood" or "flooding" means either of the following:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source;

(c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (G)(1)(a) of this section.

(H) "Flood plain" means the area adjoining any river, stream,

watercourse, or lake that has been or may be covered by flood water.

(I) "Licensor" means either the board of health of a city or general health district, or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code, or the director of health, when required under division (B) of section 3729.06 of the Revised Code. "Licensor" also means an authorized representative of any of those entities or of the director.

(J) "Manufactured home park" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code.

(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(L) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood.

(M) "Operator" means the person who has responsible charge of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp and who is licensed under this chapter.

(N) "Park model" means a recreational vehicle that meets the American national standard institute standard A119.5(1988) for park trailers, is built on a single chassis, has a gross trailer area of not more than four hundred square feet when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for operation of installed features and appliances.

(O) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state.

(P) "Portable camping units" means dependent recreational

vehicles, tents, portable sleeping equipment, and similar camping equipment used for travel, recreation, vacation, or business purposes.

(Q) "Recreation camp" means any tract of land upon which five or more portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the camp. A tract of land that is subdivided for lease or other contract of the individual lots is a recreation camp if five or more portable camping units are placed on it for recreation, vacation, or business purposes.

"Recreation camp" does not include any tract of land used solely for the storage or display for sale of dependent recreational vehicles, solely as a temporary park-camp, or solely as a manufactured home park.

(R) "Recreational vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(S) "Recreational vehicle park" means any tract of land used for parking five or more self-contained recreational vehicles and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities and any tract of land that is subdivided for lease or other contract of the individual lots for the express or implied purpose of placing self-contained recreational vehicles for recreation, vacation, or business purposes.

"Recreational vehicle park" does not include any tract of land used solely for the storage or display for sale of self-contained recreational vehicles, solely as a temporary park-camp, or solely as a manufactured home park.

(T) "Self-contained recreational vehicle" means a recreational vehicle that can operate independent of connections

to sewer and water and has plumbing fixtures or appliances all of which are connected to sewage holding tanks located within the vehicle. "Self-contained recreational vehicle" includes a park model.

(U) "Substantially alter" means a change in the layout or design of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities.

(V) "Temporary park-camp" means any tract of land used for a period not to exceed a total of twenty-one days per calendar year for the purpose of parking five or more recreational vehicles, dependent recreational vehicles, or portable camping units, or any combination thereof, for one or more periods of time that do not exceed seven consecutive days or parts thereof.

(W) "Tract" means a contiguous area of land that consists of one or more parcels, lots, or sites that have been separately surveyed regardless of whether the individual parcels, lots, or sites have been recorded and regardless of whether the one or more parcels, lots, or sites are under common or different ownership.

Sec. 3729.02. (A) The ~~public~~ director of health ~~council~~, subject to Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state governing the review of plans and issuance of licenses for and the location, layout, construction, drainage, sanitation, safety, and operation of recreational vehicle parks, recreation camps, and combined park-camps. The rules shall not apply to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(B) The ~~public health council~~ director, subject to Chapter 119. of the Revised Code, shall adopt rules of uniform application

throughout the state governing the review of plans and issuance of licenses for and the layout, sanitation, safety, and operation of temporary park-camps. The rules shall not apply to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

Sec. 3729.03. (A) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, or combined park-camp until the plans for the development have been submitted to and reviewed and approved by the director of health. This division does not require that plans be submitted to the director for approval for the replacement of recreational vehicles or portable camping units on previously approved sites in a recreational vehicle park, recreation camp, or combined park-camp when no development is to occur in connection with the replacement. Within thirty days after receipt of the plans, all supporting documents and materials required to complete the review, and the applicable plan review fee established under division (D) of this section, the director shall approve or disapprove the plans.

(B) Any person aggrieved by the director's disapproval of a set of plans under division (A) of this section may request a hearing on the matter within thirty days after receipt of the director's notice of the disapproval. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, the disapproval may be appealed in the manner provided in section 119.12 of the Revised Code.

(C) The director shall establish a system by which development occurring within a recreational vehicle park, recreation camp, or combined park-camp is inspected or verified in accordance with rules adopted under division (A) of section 3729.02 of the Revised Code to ensure that the development

complies with the plans approved under division (A) of this section.

(D) The ~~public health council~~ director shall establish fees for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section.

(E) The director shall charge the appropriate fees established under division (D) of this section for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section. All such plan review and inspection fees received by the director shall be transmitted to the treasurer of state and shall be credited to the general operations fund created in section 3701.83 of the Revised Code. Moneys so credited to the fund shall be used only for the purpose of administering and enforcing this chapter and rules adopted under it.

(F) Plan approvals issued under this section do not constitute an exemption from the land use and building requirements of the political subdivision in which the recreational vehicle park, recreation camp, or combined park-camp is or is to be located.

Sec. 3729.04. (A) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp that is located within a one-hundred-year flood plain in a municipal corporation unless the person first obtains a permit therefor from the municipal corporation in accordance with the flood plain management ordinance of the municipal corporation.

(B) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp that is located within a one-hundred-year flood plain in an unincorporated area unless the

person first obtains a permit therefor from the board of county commissioners of the county in which the development is to occur in accordance with the flood plain management resolution of the county adopted under section 307.37 of the Revised Code.

(C) If development for which a permit is required under division (A) or (B) of this section is to occur on a site where a recreational vehicle or portable camping unit is or is to be located, the owner of the recreational vehicle or portable camping unit and the operator of the recreational vehicle park, recreation camp, or combined park-camp shall jointly obtain the permit. Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.

If development for which a permit is required under division (A) or (B) of this section is to occur within a temporary park-camp on a site where a recreational vehicle or portable camping unit is or is to be located, the owner of the temporary park-camp shall obtain the permit.

(D) Fees established by a municipal corporation or county for the issuance of permits under division (A) or (B) of this section are not subject to regulation by the ~~public~~ director of health ~~council~~.

Sec. 3729.07. The licensor of a recreational vehicle park, recreation camp, or combined park-camp may charge a fee for an annual license to operate such a park, camp, or park-camp. In the case of a temporary park-camp, the licensor may charge a fee for a license to operate the temporary park-camp for the period specified in division (A) of section 3729.05 of the Revised Code. The fees for both types of licenses shall be determined in accordance with section 3709.09 of the Revised Code and shall include the cost of licensing and all inspections.

Except for the fee for a temporary park-camp license, the fee also shall include any additional amount determined by rule of the ~~public~~ director of health ~~council~~, which shall be collected and transmitted by the board of health to the director ~~of health~~ pursuant to section 3709.092 of the Revised Code and used only for the purpose of administering and enforcing this chapter and rules adopted under it. The portion of any fee retained by the board of health shall be paid into a special fund and used only for the purpose of administering and enforcing this chapter and rules adopted under it.

Sec. 3729.08. The licensor of the health district in which a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp is or is to be located, in accordance with Chapter 119. of the Revised Code, may refuse to grant, may suspend, or may revoke any license granted to any person for failure to comply with this chapter or with any rule adopted by the ~~public~~ director of health ~~council~~ under section 3729.02 of the Revised Code.

Sec. 3730.10. (A) ~~Not later than ninety days after the effective date of this section, the public~~ The director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the implementation and enforcement of this chapter. The rules shall include all of the following:

(1) Safety and sanitation standards and procedures to be followed to prevent the transmission of infectious diseases during the performance of tattooing and body piercing procedures;

(2) Standards and procedures to be followed for appropriate disinfection and sterilization of all invasive equipment or parts of equipment used in tattooing procedures, body piercing procedures, and ear piercing procedures performed with an ear

piercing gun;

(3) Procedures for suspending and revoking approvals under section 3730.05 of the Revised Code.

(B) The rules adopted under division (A)(1) of this section shall establish universal blood and body fluid precautions to be used by any individual who performs tattooing or body piercing procedures. The precautions shall include all of the following:

(1) The appropriate use of hand washing;

(2) The handling and disposal of all needles and other sharp instruments used in tattooing or body piercing procedures;

(3) The wearing and disposal of gloves and other protective garments and devices.

(C) The rules adopted under division (A) of this section may include standards and procedures to be followed by a business that offers tattooing or body piercing services to ensure that the individuals who perform tattooing or body piercing procedures for the business are adequately trained to perform the procedures properly.

Sec. 3733.41. As used in sections 3733.41 to 3733.49 of the Revised Code:

(A) "Agricultural labor camp" means one or more buildings or structures, trailers, tents, or vehicles, together with any land appertaining thereto, established, operated, or used as temporary living quarters for two or more families or five or more persons intending to engage in or engaged in agriculture or related food processing, whether occupancy is by rent, lease, or mutual agreement. "Agricultural labor camp" does not include a hotel or motel, or a manufactured home park regulated pursuant to ~~section 3733.01~~ sections 4781.26 to 4781.52 of the Revised Code, and rules adopted thereunder.

(B) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code or an authorized representative of the board of health.

(C) "Director" means the director of ~~the department of~~ health or the authorized representative of the director of health.

(D) "Licensor" means the director of health.

(E) "Person" means the state, any political subdivision, public or private corporation, partnership, association, trust, individual, or other entity.

~~(F) "Public health council" means the public health council as created by section 3701.33 of the Revised Code.~~

Sec. 3733.42. The ~~public~~ director of health ~~council~~, subject to sections 119.01 to 119.13 of the Revised Code, shall adopt rules having a uniform application throughout the state, governing the issuance of licenses, location, layout, construction, approval of plans, sanitation, safety, operation, use, and maintenance of agricultural labor camps. The rules shall establish minimum standards of habitability with which a licensee shall comply in operating an agricultural labor camp. The rules shall establish, beyond minimum standards of habitability, additional standards of habitability for those camps and shall establish priorities for those additional standards with which a licensee may ~~voluntary~~ voluntarily comply.

In addition to meeting the requirements of section 119.03 of the Revised Code, the director of health shall mail a notice of the date, time, and place of any hearing on the adoption, amendment, or rescission of such rules and the full text of the proposed rule, amendment, or rule to be rescinded, at least thirty

days prior to the hearing date, to all persons currently authorized or licensed to operate camps by the department of health, or authorized or licensed to operate camps in the previous calendar year.

Sec. 3734.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

(B) "Director" means the director of environmental protection.

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste.

(F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid wastes consist of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code.

(G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or instrumentality thereof, and any legal entity defined as a person under section 1.59 of the Revised Code.

(H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section 3734.02 of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted under division (V) of this section or section 3734.73 of the Revised Code, or the burning of treated or untreated infectious wastes in an open area or in a type of chamber or vessel that is not approved in rules adopted by the director under section 3734.021 of the Revised Code.

(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; the depositing of

untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process designed to change the physical, chemical, or biological characteristics or composition of any hazardous waste; to neutralize the waste; to recover energy or material resources from the waste; to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, storage, further treatment, or disposal; or to reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment"

means any method, technique, or process designed to render the wastes noninfectious, including, without limitation, steam sterilization and incineration, or, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or reclaimed in a beneficial manner. When used in connection with solid wastes that consist of scrap tires, "storage" means the holding of scrap tires for a temporary period in such a manner that they remain retrievable and, at the end of that period, are beneficially used; stored elsewhere; placed in a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code; processed at a scrap tire recovery facility licensed under that section or a solid waste incineration or energy recovery facility subject to regulation under this chapter; or transported to a scrap tire monocell, monofill, or recovery facility, any other solid waste facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of the state in which the facility is located.

(N) "Facility" means any site, location, tract of land, installation, or building used for incineration, composting,

sanitary landfilling, or other methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for the collection, storage, or processing of the solid wastes; for the transfer of solid wastes; for the treatment of infectious wastes; or for the storage, treatment, or disposal of hazardous waste.

(O) "Closure" means the time at which a hazardous waste facility will no longer accept hazardous waste for treatment, storage, or disposal, the time at which a solid waste facility will no longer accept solid wastes for transfer or disposal or, if the solid wastes consist of scrap tires, for storage or processing, or the effective date of an order revoking the permit for a hazardous waste facility or the registration certificate, permit, or license for a solid waste facility, as applicable. "Closure" includes measures performed to protect public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, but not limited to, the removal of processing residues resulting from solid wastes that consist of scrap tires; the establishment and maintenance of a suitable cover of soil and vegetation over cells in which hazardous waste or solid wastes are buried; minimization of erosion, the infiltration of surface water into such cells, the production of leachate, and the accumulation and runoff of contaminated surface water; the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff, except as otherwise provided in this division; the final construction of air and water quality monitoring facilities, except as otherwise provided in this division; the final construction of methane gas extraction and treatment systems; or the removal and proper disposal of hazardous waste or solid wastes from a facility when necessary to protect public health or safety or to abate or prevent air or water pollution. With regard to a solid waste facility that is a scrap tire facility, "closure" includes the final construction of

facilities for the collection and treatment of leachate and contaminated surface water runoff and the final construction of air and water quality monitoring facilities only if those actions are determined to be necessary.

(P) "Premises" means either of the following:

(1) Geographically contiguous property owned by a generator;

(2) Noncontiguous property that is owned by a generator and connected by a right-of-way that the generator controls and to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way or rights-of-way are a single premises.

(Q) "Post-closure" means that period of time following closure during which a hazardous waste facility is required to be monitored and maintained under this chapter and rules adopted under it, including, without limitation, operation and maintenance of methane gas extraction and treatment systems, or the period of time after closure during which a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code is required to be monitored and maintained under this chapter and rules adopted under it.

(R) "Infectious wastes" includes all of the following substances or categories of substances:

(1) Cultures and stocks of infectious agents and associated biologicals, including, without limitation, specimen cultures, cultures and stocks of infectious agents, wastes from production of biologicals, and discarded live and attenuated vaccines;

(2) Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;

(3) Pathological wastes, including, without limitation, human

and animal tissues, organs, and body parts, and body fluids and excreta that are contaminated with or are likely to be contaminated with infectious agents, removed or obtained during surgery or autopsy or for diagnostic evaluation, provided that, with regard to pathological wastes from animals, the animals have or are likely to have been exposed to a zoonotic or infectious agent;

(4) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under division (R)(8) of this section.

(5) Human and animal blood specimens and blood products that are being disposed of, provided that, with regard to blood specimens and blood products from animals, the animals were or are likely to have been exposed to a zoonotic or infectious agent. "Blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.

(6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents from zoonotic or human diseases during research, production of biologicals, or testing of pharmaceuticals, and carcasses and

bedding of animals otherwise infected by zoonotic or infectious agents that may present a substantial threat to public health if improperly managed;

(7) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical, research, or industrial laboratories, including, without limitation, hypodermic needles and syringes, scalpel blades, and glass articles that have been broken;

(8) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the ~~public~~ director of health ~~council created in section 3701.33 of the Revised Code~~, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

(S) "Infectious agent" means a type of microorganism, helminth, or virus that causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

(T) "Zoonotic agent" means a type of microorganism, helminth, or virus that causes disease in vertebrate animals and that is transmissible to human beings and causes or significantly contributes to the cause of increased morbidity or mortality of human beings.

(U) "Solid waste transfer facility" means any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that were generated off the premises of the facility from vehicles

or containers into other vehicles for transportation to a solid waste disposal facility. "Solid waste transfer facility" does not include any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less nor any facility where legitimate recycling activities are conducted.

(V) "Beneficially use" means to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in rules adopted by the director in accordance with Chapter 119. of the Revised Code.

(W) "Commercial car," "commercial tractor," "farm machinery," "motor bus," "vehicles," "motor vehicle," and "semitrailer" have the same meanings as in section 4501.01 of the Revised Code.

(X) "Construction equipment" means road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, or in mining or producing or processing aggregates, and not designed for or used in general highway transportation.

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code.

(Z) "Scrap tire" means an unwanted or discarded tire.

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications:

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a

facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(2) The facility exclusively stores scrap tires in portable containers.

(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet.

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed.

(CC) "Scrap tire monofill facility" means an engineered facility used or intended to be used exclusively for the storage or disposal of scrap tires, including at least facilities for the submergence of whole scrap tires in a body of water.

(DD) "Scrap tire recovery facility" means any facility, or portion thereof, for the processing of scrap tires for the purpose of extracting or producing usable products, materials, or energy from the scrap tires through a controlled combustion process, mechanical process, or chemical process. "Scrap tire recovery facility" includes any facility that uses the controlled combustion of scrap tires in a manufacturing process to produce process heat or steam or any facility that produces usable heat or electric power through the controlled combustion of scrap tires in combination with another fuel, but does not include any solid waste incineration or energy recovery facility that is designed, constructed, and used for the primary purpose of incinerating mixed municipal solid wastes and that burns scrap tires in conjunction with mixed municipal solid wastes, or any tire

retreading business, tire manufacturing finishing center, or tire adjustment center having on the premises of the business a single, covered scrap tire storage area at which not more than four thousand scrap tires are stored.

(EE) "Scrap tire storage facility" means any facility where whole scrap tires are stored prior to their transportation to a scrap tire monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(FF) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of that use, is contaminated by physical or chemical impurities. "Used oil" includes only those substances identified as used oil by the United States environmental protection agency under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 U.S.C.A. 6901a, as amended.

(GG) "Accumulated speculatively" has the same meaning as in rules adopted by the director under section 3734.12 of the Revised Code.

Sec. 3734.131. (A)(1) Except as provided in divisions (D)(1) and (2) of this section, no person shall transport any solid wastes from outside this state to a solid waste facility in this state unless that person has first irrevocably consented in writing to the jurisdiction of the courts of this state and

service of process in this state, including, without limitation, summonses and subpoenas, for any civil or criminal proceeding arising out of or relating to the wastes that are shipped to a facility in this state.

(2) The original of the consent-to-jurisdiction document shall be legible and shall be filed with the director of environmental protection on a form provided by the director. A legible copy of the completed document shall be filed with the owner or operator of each solid waste facility to which the wastes are transported. A consent-to-jurisdiction document applies only to shipments into this state of wastes described in division (A)(1) of this section.

(3) All consent-to-jurisdiction documents required under division (A)(1) or (3) of this section shall be refiled during the month of December, 1995, and during the month of December of every fourth year thereafter. Except as provided in division (D)(1) of this section, after December 31, 1995, or after the thirty-first day of December of every fourth year thereafter, whichever is applicable, no person shall continue to transport any solid wastes from outside this state to a solid waste facility in this state unless the person refiles with the director and the owner or operator of each facility to which the wastes are transported consent-to-jurisdiction documents, in the manner prescribed in division (A)(2) of this section, during the month of December next preceding the period for which the refiled document is required.

(4) If the address of a person changes from that listed on the current consent-to-jurisdiction document filed under division (A)(1) or (3) of this section, the person shall file amended consent-to-jurisdiction documents containing the new address with the director and the owner or operator of each facility to which the wastes are transported.

(5)(a) Except as provided in division (D)(1) of this section,

no person identified in divisions (D)(2)(a) to (d) of this section shall transport any solid wastes from outside this state to a solid waste facility in this state unless the person has first filed a notification and authorization document naming the person's agent who is authorized to accept service of process in this state, including, without limitation, summonses and subpoenas, for any civil or criminal proceeding arising out of or relating to the wastes that are shipped to a facility in this state.

The original of the notification and authorization document shall be legible and shall be filed with the director on a form provided by the director. A legible copy of the completed document shall be filed with the owner or operator of each solid waste facility to which the wastes are transported.

(b) All notification and authorization documents required under division (A)(5) of this section shall be refiled during the month of December, 1995, and during the month of December of every fourth year thereafter. Except as provided in division (D)(1) of this section, after December 31, 1995, or after the thirty-first day of December of every fourth year thereafter, whichever is applicable, no person identified in divisions (D)(2)(a) to (d) of this section shall continue to transport any solid wastes from outside this state to a solid waste facility in this state unless the person refiles with the director and the owner or operator of each facility to which the wastes are transported notification and authorization documents, in the manner prescribed in division (A)(5)(a) of this section, during the month of December next preceding the period for which the refiled document is required.

(c) If a person's agent or the address of a person's agent changes from that listed on the current notification and authorization document filed under division (A)(5)(a) or (b) of this section, the person shall file amended notification and

authorization documents containing the name and address of the new agent or the agent's new address with the director and the owner or operator of each facility to which the wastes are transported.

(B) A person who enters this state pursuant to a summons, subpoena, or other form of process authorized by this section is not subject to arrest or the service of process, whether civil or criminal, in connection with other matters that arose before his entrance into this state pursuant to the summons, subpoena, or other form of process authorized by this section.

(C)(1) Except as provided in division (D)(1) of this section, no owner, operator, or employee of a solid waste facility shall accept for treatment, transfer, storage, or disposal at the facility any solid wastes from outside the boundaries of this state unless the facility has received a copy of the consent-to-jurisdiction document or notification and authorization document required under this section and applicable to the wastes.

(2) The owner or operator of a solid waste facility shall keep the consent-to-jurisdiction documents and the notification and authorization documents filed with him under this section at the facility in such a location and manner that they are readily accessible to the director or his authorized representative, and the board of health having jurisdiction over the facility and its authorized representative, for the purposes of sections 3734.07 and 3734.10 of the Revised Code.

(D)(1) Divisions (A), (B), and (C) of this section do not apply to the transportation, transfer, or disposal of solid wastes from residential premises located less than ten miles outside the boundaries of this state.

(2) Divisions (A)(1) to (4) of this section do not apply to any of the following:

(a) A corporation incorporated under the laws of this state

that has appointed a statutory agent pursuant to section 1701.07 of the Revised Code;

(b) A foreign corporation licensed to transact business in this state that has appointed a designated agent pursuant to section 1703.041 of the Revised Code;

(c) A ~~nonresident~~ motor carrier ~~that has designated an agent pursuant to~~, as defined in section ~~4919.77~~ 4923.01 of the Revised Code, that is a nonresident;

(d) Any other person who is a resident of this state.

Sec. 3734.15. (A) No person shall transport hazardous waste anywhere in this state unless ~~he~~ the person has first registered with and obtained a uniform permit from the public utilities commission in accordance with ~~section 4905.80~~ Chapter 4921. of the Revised Code.

For the purposes of this section, "registered transporter" means any person who is registered with and has received a uniform permit from the public utilities commission pursuant to ~~section 4905.80~~ Chapter 4921. of the Revised Code.

(B) A registered transporter of hazardous waste shall be responsible for the safe delivery of any hazardous waste that ~~he~~ the registered transporter transports from such time as ~~he~~ the registered transporter obtains the waste until ~~he~~ the registered transporter delivers it to a treatment, storage, or disposal facility specified in division (F) of section 3734.02 of the Revised Code, as recorded on the manifest required in division (B) of section 3734.12 of the Revised Code. Any registered transporter who violates this chapter or any rule adopted under the chapter while transporting hazardous waste shall be liable for any damage or injury caused by the violation and for the costs of rectifying the violation and conditions caused by the violation.

(C) No person who generates hazardous waste shall cause the waste to be transported by any person who is not a registered transporter. No person shall accept for treatment, storage, or disposal any hazardous waste from an unregistered transporter. Any person who is requested to accept such waste for treatment, storage, or disposal shall notify the director, the board of health in ~~his~~ the person's location, and the public utilities commission of the request.

If a generator causes an unregistered transporter to transport the hazardous waste, the generator of the waste, the transporter, and any person who accepts the waste for treatment, storage, or disposal shall be jointly and severally liable for any damage or injury caused by the handling of the waste and for the costs of rectifying their violation and conditions caused by their violation.

Sec. 3734.51. There is hereby created within the environmental protection agency the solid waste management advisory council consisting of the directors of environmental protection~~,~~ and development~~, and natural resources~~, or their designees, as members ex officio, one member of the senate to be appointed by the president of the senate, one member of the house of representatives to be appointed by the speaker of the house of representatives, and fourteen members to be appointed by the governor with the advice and consent of the senate. Of the appointed members, one shall be an employee of a health district whose duties include enforcement of the solid waste provisions of this chapter, two shall represent the interests of counties, two shall represent the interests of municipal corporations, two shall represent the interests of townships, one shall represent the interests of county solid waste management districts, one shall represent the interests of joint solid waste management districts, one shall represent the interests of industrial generators of

solid wastes, one shall be from the private recycling industry, one shall be from the private solid waste management industry, one shall be from a statewide environmental advocacy organization, and one shall represent the public. ~~Within ninety days after June 24, 1988, the governor shall make the initial appointments to the advisory council. Of those initial appointments, six shall be for a term ending June 24, 1989, and six shall be for a term ending June 24, 1990. The governor shall make the initial appointments to the advisory council of the members representing county and joint solid waste management districts within ninety days after the effective date of this amendment. Of the initial appointments of the members representing solid waste management districts, one shall be for a term ending June 24, 1993, and one shall be for a term ending June 24, 1994. Thereafter, terms~~ Terms of office shall be for two years with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of ~~his~~ the member's term or until a period of sixty days has elapsed, whichever occurs first.

The advisory council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the behest of the ~~chairman~~ chairperson or a majority of the members. The director of environmental protection shall serve as ~~chairman~~ chairperson of the advisory council. The advisory council annually shall select from among its members a vice-~~chairman~~ chairperson and a secretary to keep a record of its proceedings. A majority vote of the members of the advisory council is necessary to take

action on any matter.

Serving as an appointed member of the advisory council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment. The governor may remove an appointed member of the advisory council at any time for misfeasance, nonfeasance, or malfeasance in office.

Appointed members of the advisory council shall serve without compensation for attending council meetings. Members of the advisory council shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council from moneys appropriated to the environmental protection agency for administration and enforcement of the solid waste provisions of this chapter.

The advisory council shall do all of the following:

(A) Advise and assist the director of environmental protection with preparation of the state solid waste management plan and periodic revisions to the plan under section 3734.50 of the Revised Code;

(B) Approve or disapprove the draft state solid waste management plan and periodic revisions prior to adoption of the plan under section 3734.50 of the Revised Code;

(C) Annually review implementation of the state solid waste management plan and the solid waste management plans of county and joint solid waste management districts approved or ordered to be implemented under section 3734.521 or 3734.55 of the Revised Code or amendments to those plans approved or ordered to be implemented under section 3734.521 or 3734.56 of the Revised Code, and report its findings to the director.

Sec. 3734.55. (A) Upon completion of its draft solid waste management plan under section 3734.54 of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district shall send a copy of the draft plan to the director of environmental protection for preliminary review and comment. Within forty-five days after receiving the draft plan, the director shall provide the committee with a written, nonbinding advisory opinion regarding the draft plan and any recommended changes to it that the director considers necessary to effect its approval. After receipt of the director's written opinion, the committee may make such revisions to the draft plan based on the director's opinion as it considers appropriate. Upon receipt of the director's opinion and after making any such revisions to the draft plan, the committee shall prepare and publish in at least one newspaper of general circulation within the county or joint district a public notice that describes the draft plan, specifies the location where it is available for review, and establishes a period of thirty days for comments concerning the draft plan. The committee shall send written notice of the draft plan to adjacent county and joint districts and shall make it available for review by those districts, by the board of county commissioners of each county forming the district, by all municipal corporations and townships within the county or joint district, and by the public. The committee also shall send written notice of the plan to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the board, and their local trade associations. The board shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular industrial, commercial, or institutional generator or local trade

association does not invalidate the proceedings under this section. All such written notices shall include the date, time, and location of the public hearing; the dates when the comment period begins and ends; and a description of the plan that includes, without limitation, the proposed amount of the fees to be levied under the plan pursuant to division (B) of section 3734.57 or division (A) of section 3734.573 of the Revised Code, if any, and an indication as to whether the provision required to be included in the plan under division (E)(1) of section 3734.53 of the Revised Code authorizes the board of county commissioners or directors of the district to establish, or precludes the board from establishing, facility designations under section 343.014 of the Revised Code. Within fifteen days after expiration of the comment period, the committee shall conduct a public hearing concerning the draft plan and, at least fifteen days before the hearing, shall publish in at least one newspaper of general circulation within the county or joint district a notice containing the time and place of the hearing and the location where the draft plan is available for review.

(B) After the public hearing, the committee may modify the draft plan based upon the public's comments and shall adopt or reject it by a majority vote. Within thirty days after adoption of the draft plan, the committee shall deliver a copy of it to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within ninety days after receiving a copy of the draft plan adopted by the committee, each such board and legislative authority shall approve or disapprove the draft plan, by ordinance or resolution, and deliver a copy of the ordinance or resolution to the committee.

The solid waste management policy committee of a county district or a joint district formed by two or three counties shall

declare the draft plan to be ratified as the solid waste management plan of the district upon determining that the board of county commissioners of each county forming the district has approved the draft plan and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the county or joint district comprising at least sixty per cent of the total population of the district have approved the draft plan, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. The solid waste management policy committee of a joint district formed by four or more counties shall declare the draft plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft plan; that, in each of a majority of the counties forming the joint district, the draft plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft plan.

For the purposes of this division and division (C)(2) of this section, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division and division (C)(2) of this section, a municipal

corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.

(C)(1) Upon ratification of the draft plan under division (B) of this section, the committee shall submit it to the director for review and approval for compliance with the requirements of divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code. The director, by order, shall approve or disapprove the plan within ninety days after its submission. The director shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the committee to submit, within ninety days after issuance of the order, a revised plan that remedies those deficiencies, except that if the committee, by resolution, requests an extension of the time for submission of a revised plan, the director, for good cause shown, may grant one such extension for a period of not more than sixty additional days.

(2) Within sixty days after issuance of the order disapproving its plan, the committee shall prepare a draft revised plan, adopt a draft revised plan by a majority vote, and deliver a copy of the draft revised plan to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within twenty-one days after the delivery of the draft revised plan, each such board and legislative authority shall approve or disapprove the draft revised plan, by ordinance or resolution, and deliver a copy of the ordinance or resolution to the committee. In the case of a county district or a joint district formed by two or three

counties, the committee shall declare the draft revised plan to be ratified as the solid waste management plan of the county or joint district upon determining that the board of county commissioners of each county forming the district has approved the draft revised plan and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the district comprising at least sixty per cent of the total population of the district have approved the draft revised plan, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. In the case of a joint district formed by four or more counties, the committee shall declare the draft revised plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft revised plan; that, in each of a majority of the counties forming the joint district, the draft revised plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft revised plan. Upon ratification of the draft revised plan, the committee shall submit it to the director for approval in accordance with division (C)(1) of this section. The director, by order, shall approve or disapprove the draft revised plan within thirty days after

receiving it.

(3) Notwithstanding section 119.06 of the Revised Code, the director may approve or disapprove a plan or revised plan submitted under division (C)(1) or (2) of this section by issuance of a final order that is effective upon issuance, without the necessity to hold any adjudication hearing in connection with the order and without issuance of a proposed action under section 3745.07 of the Revised Code. In any appeal taken under section 3745.04 of the Revised Code pertaining to the director's disapproval of the solid waste management plan or revised plan of a county or joint district, the solid waste management policy committee of the county or joint district and the director shall be the parties. Upon a showing by the policy committee that there is a substantial likelihood that it will prevail on the merits, the environmental review appeals commission, within thirty days after filing of the notice of appeal under that section and pending final determination of the appeal, may grant temporary relief from the director's order disapproving the district's plan, including the issuance of appropriate orders to the director to refrain from acting under division (D) of this section.

(4) After approval of the plan or revised plan by the director, the board of county commissioners of a county district or board of directors of a joint district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

The committee annually shall review implementation of the plan approved under this section or section 3734.521 of the Revised Code and subsequent amended plans approved under section 3734.521 or 3734.56 of the Revised Code and report its findings and recommendations regarding implementation of the plan to the board of county commissioners or board of directors of the district.

(D) If the director finds that a county or joint solid waste management district has failed to obtain approval of its solid waste management plan within eighteen months after the applicable date prescribed for submission of its plan under division (A) of section 3734.54 of the Revised Code or within twenty-four months after that date if the date for submission was extended under that division, the director shall prepare a solid waste management plan for the county or joint district that complies with divisions (A) and (D) of section 3734.53 of the Revised Code. The plan shall not contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of that section. Upon completion of the plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the plan in compliance with the implementation schedule contained in it.

Within thirty days after the effective date of the order to implement the plan, the board of county commissioners or board of directors of the district shall determine whether the solid waste management policy committee of the district should continue to exist to monitor implementation of the plan or for the purposes of division (B) of section 3734.57 or section 3734.574 of the Revised Code. The board, by resolution, may abolish the committee if it determines that the committee is not necessary for any of those purposes. If the board of county commissioners or directors of a district that has so abolished the policy committee of the district finds that it is necessary or appropriate for the district to consider levying fees under section 3734.574 of the Revised Code, the board shall reestablish and convene the policy committee to initiate proceedings to levy the fees. If the fees are levied, the policy committee shall continue to exist for as long as the district is levying the fees. If, after a policy committee is convened to initiate proceedings to levy those fees,

the fees are not levied or are abolished under section 3734.574 of the Revised Code, the board, by resolution, may abolish the committee if it determines that the committee is not necessary to monitor implementation of the plan.

(E) If the director finds that the board of county commissioners or the board of directors of a district has materially failed to implement the district's plan or amended plan approved under division (C) of this section or section 3734.521 or 3734.56 of the Revised Code, or prepared and ordered to be implemented under division (D) of this section or section 3734.521 or 3734.56 of the Revised Code, in compliance with the implementation schedule contained in the plan or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board to comply with the implementation schedule in the plan or amended plan within a specified, reasonable time. If the director finds that the board of county commissioners or directors of a district for which the provision included in the district's initial or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised Code, or an amendment to the district's approved initial or amended plan adopted and ratified under division (F) of section 3734.56 of the Revised Code, precludes the board from establishing facility designations under section 343.014 of the Revised Code has initiated proceedings to establish facility designations in violation of that section and the district's initial or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or suspend them until after the board has adopted and obtained ratification of an amendment to the district's initial or amended plan under division (F) of section 3734.56 of the Revised Code that authorizes the board to establish

facility designations under section 343.014 of the Revised Code. If the director finds that a board of county commissioners or directors of a district for which the provision included in the district's initial or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised Code, or an amendment to the district's approved initial or amended plan adopted and ratified under division (F) of section 3734.56 of the Revised Code, authorizes the board to establish facility designations under section 343.014 of the Revised Code has established facility designations under section 343.014 of the Revised Code or continued facility designations under section 343.015 of the Revised Code and subsequently has initiated proceedings to terminate any such facility designations in violation of section 343.014 of the Revised Code and the district's initial or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or adopt and obtain ratification of an amendment to the district's initial or amended plan under division (F) of section 3734.56 of the Revised Code that precludes the board from establishing facility designations under section 343.014 of the Revised Code.

(F) The director shall maintain a record of the county and joint solid waste management district solid waste management plans and amended plans that the director has approved or ordered to be implemented under this section, section 3734.521, and section 3734.56 of the Revised Code. ~~Upon determining that each county within the state is subject to such a plan or amended plan, the director shall notify the chief of recycling and litter prevention in the department of natural resources of that fact.~~

(G)(1) As used in divisions (C)(4), (D)(1) and (2), and (E)

of this section and section 3734.521 of the Revised Code, any reference to a board of county commissioners of a county or a board of directors of a joint solid waste management district is deemed to include the board of trustees of a regional solid waste management authority formed under section 343.011 of the Revised Code.

(2) As used in this section and sections 3734.521 and 3734.57 of the Revised Code, "deliver" includes mailing as well as delivery by a means other than mailing.

Sec. 3734.79. (A) Except as provided in division (B) of this section, each application for a permit submitted under sections 3734.76 to 3734.78 of the Revised Code shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code. If a permit is issued, the amount of the application fee paid shall be deducted from the amount of the applicable permit fee due under division ~~(G)~~(R) of section 3745.11 of the Revised Code.

(B) Division (A) of this section does not apply to an application for a permit for a scrap tire storage facility submitted under section 3734.76 of the Revised Code if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

Sec. 3734.82. (A) The annual fee for a scrap tire recovery facility license issued under section 3734.81 of the Revised Code shall be in accordance with the following schedule:

Daily Design Input Capacity (Tons)	Annual License Fee

1 or less	$ 100
2 to 25	500
26 to 50	1,000
51 to 100	1,500
101 to 200	2,500
201 to 500	3,500
501 or more	5,500

For the purpose of determining the applicable license fee under this division, the daily design input capacity shall be the quantity of scrap tires the facility is designed to process daily as set forth in the registration certificate or permit for the facility, and any modifications to the permit, if applicable, issued under section 3734.78 of the Revised Code.

(B) The annual fee for a scrap tire monocell or monofill facility license shall be in accordance with the following schedule:

Authorized Maximum Daily Waste Receipt (Tons)	Annual License Fee
100 or less	$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under this division, the authorized maximum daily waste receipt shall be the maximum amount of scrap tires the facility is authorized to receive daily that is established in the permit for the facility, and any modification to that permit, issued under section 3734.77 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the annual fee for a scrap tire storage facility license shall equal one thousand dollars times the number of acres

on which scrap tires are to be stored at the facility during the license year, as set forth on the application for the annual license, except that the total annual license fee for any such facility shall not exceed three thousand dollars.

(2) The annual fee for a scrap tire storage facility license for a storage facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is one hundred dollars.

(D)(1) Except as otherwise provided in division (D)(2) of this section, the annual fee for a scrap tire collection facility license is two hundred dollars.

(2) The annual fee for a scrap tire collection facility license for a collection facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is fifty dollars.

(E) Except as otherwise provided in divisions (C)(2) and (D)(2) of this section, the same fees apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after the issuance of a license. The fees include the cost of licensing, all inspections, and other costs associated with the administration of the scrap tire provisions of this chapter and rules adopted under them. Each license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director of environmental protection, as appropriate, within thirty days after the issuance of the license.

(F) The board of health shall retain fifteen thousand dollars of each license fee collected by the board under division (B) of this section, or the entire amount of any such fee that is less than fifteen thousand dollars, and the entire amount of each license fee collected by the board under divisions (A), (C), and

(D) of this section. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the scrap tire provisions of this chapter and rules adopted under them. The remainder, if any, of each license fee collected by the board under division (B) of this section shall be transmitted to the director within forty-five days after receipt of the fee.

(G) The director shall transmit the moneys received by the director from license fees collected under division (B) of this section to the treasurer of state to be credited to the scrap tire management fund, which is hereby created in the state treasury. The fund shall consist of all federal moneys received by the environmental protection agency for the scrap tire management program; all grants, gifts, and contributions made to the director for that program; and all other moneys that may be provided by law for that program. The director shall use moneys in the fund as follows:

(1) Expend amounts determined necessary by the director to implement, administer, and enforce the scrap tire provisions of this chapter and rules adopted under them;

(2) During each fiscal year, request the director of budget and management to, and the director of budget and management shall, transfer one million dollars to the scrap tire grant fund created in section ~~1502.12~~ 3734.822 of the Revised Code for supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes. In addition, during a fiscal year, the director of environmental protection may request the director of budget and management to, and the director of budget and management shall, transfer up to an additional five hundred thousand dollars to the scrap tire grant fund for scrap tire amnesty events and scrap tire cleanup events.

(3) After the expenditures and transfers are made under divisions (G)(1) and (2) of this section, expend the balance of the money in the scrap tire management fund remaining in each fiscal year to conduct removal actions under section 3734.85 of the Revised Code and to provide grants to boards of health under section 3734.042 of the Revised Code.

Sec. ~~1502.12~~ 3734.822. (A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section 3734.82 of the Revised Code. The ~~chief of the division of recycling and litter prevention, with the approval of the~~ director of ~~natural resources,~~ environmental protection may make grants from the fund for the following purposes:

(1) Supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes;

(2) Supporting scrap tire amnesty and cleanup events sponsored by solid waste management districts.

Grants awarded under division (A)(1) of this section may be awarded to individuals, businesses, and entities certified under division (A) of section ~~1502.04~~ 3736.04 of the Revised Code.

(B) Projects and activities that are eligible for grants under division (A)(1) of this section shall be evaluated for funding using, at a minimum, the following criteria:

(1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;

(2) The degree of local financial support for a proposed project;

(3) The technical merit and quality of a proposed project.

Sec. 3735.37. A metropolitan housing authority shall keep an accurate account of all its activities and of all receipts and expenditures and make an annual report ~~thereof to the director of development~~ of these publicly available. All moneys received in excess of operating expenditures shall be devoted to the payment of interest and sinking fund charges for the retirement of indebtedness, whether secured by mortgage or otherwise, and from the excess there shall be set aside such fund as the authority deems proper for the purpose of covering repairs, depreciation, and reserves. Whatever balance then remains shall be applied to the reduction of rentals thereafter falling due.

Sec. ~~1502.01~~ 3736.01. As used in this chapter:

(A) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature thrown, dropped, discarded, placed, or deposited by a person on public property, on private property not owned by the person, or in or on waters of the state unless one of the following applies:

(1) The person has been directed to do so by a public official as part of a litter collection drive.

(2) The person has thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that prevented its being carried away by the elements.

(3) The person has been issued a permit or license covering the material pursuant to Chapter 3734. or 6111. of the Revised Code.

(B) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and reusing the materials.

(C) "Agency of the state" includes, but is not limited to, an "agency" subject to Chapter 119. of the Revised Code and a "state university or college" as defined in section 3345.12 of the Revised Code.

(D) "Source reduction" means activities that decrease the initial production of waste materials at their point of origin.

(E) "Enterprise" means a business with its principal place of business in this state and that proposes to engage in research and development or recycling in this state.

(F) "Research and development" means inquiry, experimentation, or demonstration to advance basic scientific or technical knowledge or the application, adaptation, or use of existing or newly discovered scientific or technical knowledge regarding recycling, source reduction, or litter prevention.

(G) "Recyclables" means waste materials that are collected, separated, or processed and used as raw materials or products.

(H) "Recycling market development" means activities that stimulate the demand for recycled products, provide for a consistent supply of recyclables to meet the needs of recycling industries, or both.

(I) "Solid waste management districts" means solid waste management districts established under Chapter 343. of the Revised Code.

(J) "Synthetic rubber" means produced or extended rubber and products made from a synthetic rubber base material originating from petrochemical feedstocks, including scrap tires, tire molds, automobile engine belts, brake pads and hoses, weather stripping, fittings, electrical insulation, and other molded objects and parts.

Sec. ~~1502.03~~ 3736.02. (A) The ~~chief~~ director of ~~the division~~

~~of recycling and litter prevention~~ environmental protection shall establish and implement statewide source reduction, recycling, recycling market development, and litter prevention programs that are consistent with the state solid waste management plan adopted under section 3734.50 of the Revised Code. The programs shall include all of the following:

(1) The assessment of waste generation within the state and implementation of source reduction practices;

(2) The implementation of recycling and recycling market development activities and projects, including all of the following:

(a) Collection of recyclables;

(b) Separation of recyclables;

(c) Processing of recyclables;

(d) Facilitation and encouragement of the use of recyclables and products made with recyclables;

(e) Education and training concerning recycling and products manufactured with recyclables;

(f) Public awareness campaigns to promote recycling;

(g) Other activities and projects that promote recycling and recycling market development.

(3) Litter prevention assistance to enforce antilitter laws, educate the public, and stimulate collection and containment of litter;

(4) Research and development regarding source reduction, recycling, and litter prevention, including, without limitation, research and development regarding materials or products manufactured with recyclables.

(B) The ~~chief, with the approval of the~~ director ~~of natural~~

~~resources,~~ may enter into contracts or other agreements and may execute any instruments necessary or incidental to the discharge of the ~~chief's~~ director's responsibilities under this chapter.

Sec. ~~1502.02~~ 3736.03. (A) ~~There is hereby created in the department of natural resources the division of recycling and litter prevention to be headed by the chief of recycling and litter prevention.~~

~~(B)~~ There is hereby created in the state treasury the recycling and litter prevention fund, consisting of moneys distributed to it from fees, including the fee levied under division (A)(2) of section 3714.073 of the Revised Code, gifts, donations, grants, reimbursements, and other sources, including investment earnings.

~~(C)~~(B) The ~~chief~~ director of ~~recycling and litter prevention~~ environmental protection shall do all of the following:

(1) Use moneys credited to the fund exclusively for the purposes set forth in sections ~~1502.03~~ 3736.02, ~~1502.04~~ 3736.04, 3736.05, and ~~1502.05~~ 3745.014 of the Revised Code, with particular emphasis on programs relating to recycling;

(2) ~~Expend for administration of the division not more than ten per cent of any fiscal year's appropriation to the division, excluding the amount assessed to the division for direct and indirect central support charges;~~

~~(3)~~ Require recipients of grants under section ~~1502.05~~ 3736.05 of the Revised Code, as a condition of receiving and retaining them, to do all of the following:

(a) Create a separate account for the grants and any cash donations received that qualify for the donor credit allowed by section 5733.064 of the Revised Code;

(b) Make expenditures from the account exclusively for the

purposes for which the grants were received;

(c) Use any auditing and accounting practices the ~~chief~~ director considers necessary regarding the account;

(d) Report to the ~~chief~~ director information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code;

(e) Use grants received to supplement and not to replace any existing funding for such purposes.

~~(4)~~(3) Report to the tax commissioner information the ~~chief~~ director receives pursuant to division ~~(C)(3)~~(B)(2)(d) of this section.

Sec. ~~1502.04~~ 3736.04. There is hereby created within the ~~division of recycling and litter prevention~~ environmental protection agency the recycling and litter prevention advisory council consisting of thirteen members. The speaker of the house of representatives shall appoint one member of the house of representatives to the council, and the president of the senate shall appoint one member of the senate to the council. If the president of the senate belongs to the same political party as the speaker of the house of representatives, the president shall appoint a member of the senate who belongs to a different political party as recommended by the minority leader of the senate. ~~The speaker of the house of representatives and the president of the senate shall make their initial appointments to the council within sixty days after July 20, 1994.~~ Each member appointed by the speaker of the house of representatives or the president of the senate shall serve for a term of office of three years. The appropriate appointing authority may fill any vacancy occurring during the term of any member whom the appointing authority has appointed to the advisory council.

The remaining eleven members shall be appointed by the governor with the advice and consent of the senate and shall be persons with knowledge of or experience in recycling or litter prevention programs. The council shall have broad-based representation of interests including agriculture, labor, the environment, manufacturing, wholesale and retail industry, and the public. One of the business members shall be from the commercial recycling industry, and another shall be from an industry required to pay taxes under section 5733.065 of the Revised Code. The director of ~~natural resources~~ environmental protection shall not be a member of the council. ~~The governor shall make initial appointments to the council within thirty days after October 20, 1987. Of the governor's initial appointments to the council, five shall be for a term of one year, and six shall be for a term of two years. Thereafter, terms~~ Terms of office shall be for three years. Each member appointed by the governor shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In the event of death, removal, resignation, or incapacity of a member of the council appointed by the governor, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor at any time may remove any of the governor's appointees from the council for misfeasance, nonfeasance, or malfeasance in office.

Members of the council may be reappointed.

The council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the behest of the chairperson or a majority of the members. The council annually

shall select from among its members a chairperson, a vice-chairperson, and a secretary to keep a record of its proceedings.

A majority vote of the members of the council is necessary to take action ~~in~~ on any matter.

A member of the council shall serve without compensation for attending council meetings, but shall be reimbursed for all traveling, hotel, and other ordinary and necessary expenses incurred in the performance of the member's work as a member of the council.

Membership on the council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

The council shall do all of the following:

(A) ~~In conjunction with the chief of recycling and litter prevention and with~~ With the approval of the director of ~~natural resources~~ environmental protection, establish criteria by which to certify, and certify, agencies of the state, municipal corporations with a population of more than fifty thousand, counties, and solid waste management districts as eligible to receive grants under section ~~1502.05~~ 3736.05 of the Revised Code;

(B) ~~In conjunction with the chief and with~~ With the approval of the director, establish criteria by which to certify, and certify, political subdivisions for receipt of special grants for activities or projects that are intended to accomplish the purposes of any of the programs established under section ~~1502.03~~ 3736.02 of the Revised Code;

(C) Advise the ~~chief~~ director in carrying out the ~~chief's~~ director's duties under this chapter.

Sec. ~~1502.05~~ 3736.05. (A) The ~~chief~~ director of ~~recycling and litter prevention~~ environmental protection, pursuant to division (A) of section ~~1502.04~~ 3736.04 of the Revised Code ~~and with the approval of the director of natural resources~~, may make grants from the recycling and litter prevention fund created in section ~~1502.02~~ 3736.03 of the Revised Code to accomplish the purposes of the programs established under section ~~1502.03~~ 3736.02 of the Revised Code.

(B) Except as provided in division (C) of this section, ~~the chief, with the approval of~~ the director~~,~~ may require any eligible applicant certified by the recycling and litter prevention advisory council under division (A) of section ~~1502.04~~ 3736.04 of the Revised Code that applies for a grant for an activity or project that is intended to further the purposes of any program established under division (A)(1), (2), or (4) of section ~~1502.03~~ 3736.02 of the Revised Code to provide a matching contribution of not more than fifty per cent of the grant.

(C) Notwithstanding division (B) of this section, any grant awarded under division (A) of this section to foster cooperative research and development regarding recycling or the cooperative establishment or expansion of private recycling facilities or programs shall be made in conjunction with a contribution to the project by a cooperating enterprise that maintains or proposes to maintain a relevant research and development or recycling facility or program in this state or by an agency of the state, provided that funding provided by a state agency shall not be provided from general revenue funds appropriated by the general assembly. No grant made under division (A) of this section for the purposes described in this division shall exceed the contribution made by the cooperating enterprise or state agency. The ~~chief~~ director may consider cooperating contributions in the form of state of the art new equipment or in other forms if the ~~chief~~ director determines

that the contribution is essential to the successful implementation of the project.

Grants made under division (A) of this section for the purposes described in this division shall be made in such form and conditioned on such terms as the ~~chief~~ director considers to be appropriate.

(D)(1) The ~~chief, with the approval of the~~ director~~,~~ may require any eligible applicant certified by the recycling and litter prevention advisory council under division (A) of section ~~1502.04~~ 3736.04 of the Revised Code that applies for a grant that is intended to further the purposes of the program established under division (A)(3) of section ~~1502.03~~ 3736.02 of the Revised Code, except any eligible applicant that is or is located in a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state as determined by the ~~chief~~ director using the most recently available figures from the United States census bureau, to provide a matching contribution as follows:

(a) Up to ten per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above ninety per cent of the median county per capita income of the state, but equal to or below one hundred per cent of the median county per capita income of the state;

(b) Up to twenty per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above the median county per capita income of the state.

(2) If the eligible applicant is a joint solid waste management district or is filing a joint application on behalf of two or more counties, the matching contribution required under division (D)(1) of this section shall be the average of the matching contributions of all of the counties covered by the

application as determined in accordance with that division. The matching contribution of a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state shall be included as zero in calculating the average matching contribution.

(E) ~~After receiving notice from the~~ The director ~~of environmental protection that each county within the state is subject to the solid waste management plan of a solid waste management district, the chief~~ shall ensure that not less than fifty per cent of the moneys distributed as grants under this section shall be expended for the purposes of recycling and recycling market development.

(F) No information that is submitted to, acquired by, or exchanged with employees of the environmental protection agency who administer or provide services under this section and that is submitted, acquired, or exchanged in order to obtain a grant pursuant to division (A) of this section shall be used in any manner for the purpose of the enforcement of any requirement established in an environmental law or used as evidence in any judicial or administrative enforcement proceeding unless that information reveals a clear and immediate danger to the environment or to the health, safety, or welfare of the public.

(G) Nothing in this section confers immunity on persons from enforcement that is based on information that is obtained by the director or the director's authorized representatives who are not employees of the agency who administer or provide services under this section.

(H) As used in this section, "environmental law" means a law that is administered by the environmental protection agency.

Sec. ~~1502.06~~ 3736.06. (A) Agencies of the state certified pursuant to section ~~1502.04~~ 3736.04 of the Revised Code as

eligible to receive a grant shall designate an employee as the liaison with the ~~chief~~ director of ~~recycling and litter prevention~~ environmental protection to cooperate with ~~him~~ the director in carrying out ~~his~~ the director's duties under this chapter.

(B) The executive and legislative authorities of municipal corporations, counties, and townships and the boards of park commissioners of township park districts created under section 511.18 of the Revised Code, boards of park commissioners of park districts created under section 1545.04 of the Revised Code, and boards of education of city, exempted village, local, and joint vocational school districts may participate in the programs established under section ~~1502.03~~ 3736.02 of the Revised Code.

Sec. ~~1502.07~~ 3736.07. No person, agency of the state, municipal corporation, county, or township shall sell or offer for sale any beer or mixed beverages as defined in section 4301.01 of the Revised Code, or any soft drink as defined in section 913.22 of the Revised Code, in a metal container that is so designed that it may be opened by removing from the container a part of the container without using a separate opener. However, nothing in this section prohibits the sale or offering for sale of a container the only detachable part of which is a piece of tape or other similar adhesive material.

Sec. ~~1502.99~~ 3736.99. Whoever violates section ~~1502.07~~ 3736.07 of the Revised Code is guilty of a minor misdemeanor. Each day of violation constitutes a separate offense.

Sec. 3737.83. The fire marshal shall, as part of the state fire code, adopt rules to:

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;

(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment;

(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt.

(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards.

In any case where the federal government or any department or agency thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards.

With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code.

(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers and in type A family day-care homes, as defined in section 5104.01 of the Revised Code.

(F) Establish minimum standards for fire prevention and safety ~~an adult group home seeking licensure as an adult care~~ in a residential facility ~~must meet~~ licensed under section ~~5119.71~~ 5119.22 of the Revised Code that provides accommodations,

supervision, and personal care services for three to sixteen unrelated adults. The fire marshal shall adopt the rules under this division in consultation with the ~~directors~~ director of mental health ~~and aging~~ and interested parties designated by the ~~directors~~ director of mental health ~~and aging~~.

Sec. 3737.841. As used in this section and section 3737.842 of the Revised Code:

(A) "Public occupancy" means all of the following:

(1) Any state correctional institution as defined in section 2967.01 of the Revised Code and any county, multicounty, municipal, or municipal-county jail or workhouse;

(2) Any hospital as defined in section 3727.01 of the Revised Code, any hospital licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department of mental health under Chapter 5119. of the Revised Code;

(3) Any nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code and any ~~adult care~~ residential facility ~~as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(4) Any child day-care center and any type A family day-care home as defined in section 5104.01 of the Revised Code;

(5) Any public auditorium or stadium;

(6) Public assembly areas of hotels and motels containing more than ten articles of seating furniture.

(B) "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess for sale,

or dispose of in any other commercial manner.

(C) Except as provided in division (D) of this section, "seating furniture" means any article of furniture, including children's furniture, that can be used as a support for an individual, or an individual's limbs or feet, when sitting or resting in an upright or reclining position and that either:

(1) Is made with loose or attached cushions or pillows;

(2) Is stuffed or filled in whole or in part with any filling material;

(3) Is or can be stuffed or filled in whole or in part with any substance or material, concealed by fabric or any other covering.

"Seating furniture" includes the cushions or pillows belonging to or forming a part of the furniture, the structural unit, and the filling material and its container or covering.

(D) "Seating furniture" does not include, except if intended for use by children or in facilities designed for the care or treatment of humans, any of the following:

(1) Cushions or pads intended solely for outdoor use;

(2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;

(3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.

(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or artificial material or substance that is used or can be used as stuffing in seating furniture.

Sec. 3742.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

(B) "Child care facility" means each area of any of the following in which child care, as defined in section 5104.01 of the Revised Code, is provided to children under six years of age:

(1) A child day-care center, type A family day-care home, or type B family day-care home as defined in section 5104.01 of the Revised Code;

(2) A type C family day-care home authorized to provide child care by Sub. H.B. 62 of the 121st general assembly, as amended by Am. Sub. S.B. 160 of the 121st general assembly and Sub. H.B. 407 of the 123rd general assembly;

(3) A preschool program or school child program as defined in section 3301.52 of the Revised Code.

(C) "Clearance examination" means an examination to determine whether the lead hazards in a residential unit, child care facility, or school have been sufficiently controlled. A clearance examination includes a visual assessment, collection, and analysis of environmental samples.

(D) "Clearance technician" means a person, other than a licensed lead inspector or licensed lead risk assessor, who performs a clearance examination.

(E) "Clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the

assessment or impairment of the health of human beings. "Clinical laboratory" does not include a facility that only collects or prepares specimens, or serves as a mailing service, and does not perform testing.

(F) "Encapsulation" means the coating and sealing of surfaces with durable surface coating specifically formulated to be elastic, able to withstand sharp and blunt impacts, long-lasting, and resilient, while also resistant to cracking, peeling, algae, fungus, and ultraviolet light, so as to prevent any part of lead-containing paint from becoming part of house dust or otherwise accessible to children.

(G) "Enclosure" means the resurfacing or covering of surfaces with durable materials such as wallboard or paneling, and the sealing or caulking of edges and joints, so as to prevent or control chalking, flaking, peeling, scaling, or loose lead-containing substances from becoming part of house dust or otherwise accessible to children.

(H) "Environmental lead analytical laboratory" means a facility that analyzes air, dust, soil, water, paint, film, or other substances, other than substances derived from the human body, for the presence and concentration of lead.

(I) "HEPA" means the designation given to a product, device, or system that has been equipped with a high-efficiency particulate air filter, which is a filter capable of removing particles of 0.3 microns or larger from air at 99.97 per cent or greater efficiency.

(J) "Interim controls" means a set of measures designed to reduce temporarily human exposure or likely human exposure to lead hazards. Interim controls include specialized cleaning, repairs, painting, temporary containment, ongoing lead hazard maintenance activities, and the establishment and operation of management and

resident education programs.

(K)(1) "Lead abatement" means a measure or set of measures designed for the single purpose of permanently eliminating lead hazards. "Lead abatement" includes all of the following:

(a) Removal of lead-based paint and lead-contaminated dust;

(b) Permanent enclosure or encapsulation of lead-based paint;

(c) Replacement of surfaces or fixtures painted with lead-based paint;

(d) Removal or permanent covering of lead-contaminated soil;

(e) Preparation, cleanup, and disposal activities associated with lead abatement.

(2) "Lead abatement" does not include any of the following:

(a) Preventive treatments performed pursuant to section 3742.41 of the Revised Code;

(b) Implementation of interim controls;

(c) Activities performed by a property owner on a residential unit to which both of the following apply:

(i) It is a freestanding single-family home used as the property owner's private residence.

(ii) No child under six years of age who has lead poisoning resides in the unit.

(L) "Lead abatement contractor" means any individual who engages in or intends to engage in lead abatement and employs or supervises one or more lead abatement workers, including on-site supervision of lead abatement projects, or prepares specifications, plans, or documents for a lead abatement project.

(M) "Lead abatement project" means one or more lead abatement activities that are conducted by a lead abatement contractor and are reasonably related to each other.

(N) "Lead abatement project designer" means a person who is responsible for designing lead abatement projects and preparing a pre-abatement plan for all designed projects.

(O) "Lead abatement worker" means an individual who is responsible in a nonsupervisory capacity for the performance of lead abatement.

(P) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health, as that level is established ~~by rule of the public health council~~ in rules adopted under section 3742.50 of the Revised Code.

(Q) "Lead-contaminated dust" means dust that contains an area or mass concentration of lead at or in excess of the level that is hazardous to human health, as that level is established ~~by rule of the public health council~~ in rules adopted under section 3742.50 of the Revised Code.

(R) "Lead-contaminated soil" means soil that contains lead at or in excess of the level that is hazardous to human health, as that level is established ~~by rule of the public health council~~ in rules adopted under section 3742.50 of the Revised Code.

(S) "Lead hazard" means material that is likely to cause lead exposure and endanger an individual's health as determined by the ~~public~~ director of health ~~council~~ in rules adopted under section 3742.50 of the Revised Code. "Lead hazard" includes lead-based paint, lead-contaminated dust, lead-contaminated soil, and lead-contaminated water pipes.

(T) "Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based paint. The inspection shall use a sampling or testing technique approved by the ~~public health council~~ director in rules adopted ~~by the council~~ under section 3742.03 of the Revised Code. A licensed lead

inspector or laboratory approved under section 3742.09 of the Revised Code shall certify in writing the precise results of the inspection.

(U) "Lead inspector" means any individual who conducts a lead inspection, provides professional advice regarding a lead inspection, or prepares a report explaining the results of a lead inspection.

(V) "Lead poisoning" means the level of lead in human blood that is hazardous to human health, as specified in rules adopted under section 3742.50 of the Revised Code.

(W) "Lead risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of lead hazards in a residential unit, child care facility, or school, including information gathering from the unit, facility, or school's current owner's knowledge regarding the age and painting history of the unit, facility, or school and occupancy by children under six years of age, visual inspection, limited wipe sampling or other environmental sampling techniques, and any other activity as may be appropriate.

(X) "Lead risk assessor" means a person who is responsible for developing a written inspection, risk assessment, and analysis plan; conducting inspections for lead hazards in a residential unit, child care facility, or school; interpreting results of inspections and risk assessments; identifying hazard control strategies to reduce or eliminate lead exposures; and completing a risk assessment report.

(Y) "Lead-safe renovation" means the supervision or performance of services for the general improvement of all or part of an existing structure, including a residential unit, child care facility, or school, when the services are supervised or performed by a lead-safe renovator.

(Z) "Lead-safe renovator" means a person who has successfully completed a training program in lead-safe renovation approved under section 3742.47 of the Revised Code.

(AA) "Manager" means a person, who may be the same person as the owner, responsible for the daily operation of a residential unit, child care facility, or school.

(BB) "Permanent" means an expected design life of at least twenty years.

(CC) "Replacement" means an activity that entails removing components such as windows, doors, and trim that have lead hazards on their surfaces and installing components free of lead hazards.

(DD) "Residential unit" means a dwelling or any part of a building being used as an individual's private residence.

(EE) "School" means a public or nonpublic school in which children under six years of age receive education.

Sec. 3742.02. (A) No person shall do any of the following:

(1) Violate any provision of this chapter or the rules adopted pursuant to it;

(2) Apply or cause to be applied any lead-based paint on or inside a residential unit, child care facility, or school, unless the ~~public~~ director of health ~~council~~ has determined by rule under section 3742.50 of the Revised Code that no suitable substitute exists;

(3) Interfere with an investigation conducted by the director of health or a board of health in accordance with section 3742.35 of the Revised Code.

(B) No person shall knowingly authorize or employ an individual to perform lead abatement on a residential unit, child care facility, or school unless the individual who will perform

the lead abatement holds a valid license issued under section 3742.05 of the Revised Code.

(C) No person shall do any of the following when a residential unit, child care facility, or school is involved:

(1) Perform a lead inspection without a valid lead inspector license issued under section 3742.05 of the Revised Code;

(2) Perform a lead risk assessment or provide professional advice regarding lead abatement without a valid lead risk assessor license issued under section 3742.05 of the Revised Code;

(3) Act as a lead abatement contractor without a valid lead abatement contractor's license issued under section 3742.05 of the Revised Code;

(4) Act as a lead abatement project designer without a valid lead abatement project designer license issued under section 3742.05 of the Revised Code;

(5) Perform lead abatement without a valid lead abatement worker license issued under section 3742.05 of the Revised Code;

(6) Effective one year after April 7, 2003, perform a clearance examination without a valid clearance technician license issued under section 3742.05 of the Revised Code, unless the person holds a valid lead inspector license or valid lead risk assessor license issued under that section;

(7) Perform lead training for the licensing purposes of this chapter without a valid approval from the director of health under section 3742.08 of the Revised Code;

(8) Perform interim controls without complying with 24 C.F.R. Part 35.

Sec. 3742.03. The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code

for the administration and enforcement of sections 3742.01 to 3742.19 and 3742.99 of the Revised Code. The rules shall specify all of the following:

(A) Procedures to be followed by a lead abatement contractor, lead abatement project designer, lead abatement worker, lead inspector, or lead risk assessor licensed under section 3742.05 of the Revised Code for undertaking lead abatement activities and procedures to be followed by a clearance technician, lead inspector, or lead risk assessor in performing a clearance examination;

(B)(1) Requirements for training and licensure, in addition to those established under section 3742.08 of the Revised Code, to include levels of training and periodic refresher training for each class of worker, and to be used for licensure under section 3742.05 of the Revised Code. Except in the case of clearance technicians, these requirements shall include at least twenty-four classroom hours of training based on the Occupational Safety and Health Act training program for lead set forth in 29 C.F.R. 1926.62. For clearance technicians, the training requirements to obtain an initial license shall not exceed six hours and the requirements for refresher training shall not exceed two hours every four years. In establishing the training and licensure requirements, the ~~public health council~~ director shall consider the core of information that is needed by all licensed persons, and establish the training requirements so that persons who would seek licenses in more than one area would not have to take duplicative course work.

(2) Persons certified by the American board of industrial hygiene as a certified industrial hygienist or as an industrial hygienist-in-training, and persons registered as a sanitarian or sanitarian-in-training under Chapter 4736. of the Revised Code, shall be exempt from any training requirements for initial

licensure established under this chapter, but shall be required to take any examinations for licensure required under section 3742.05 of the Revised Code.

(C) Fees for licenses issued under section 3742.05 of the Revised Code and for their renewal;

(D) Procedures to be followed by lead inspectors, lead abatement contractors, environmental lead analytical laboratories, lead risk assessors, lead abatement project designers, and lead abatement workers to prevent public exposure to lead hazards and ensure worker protection during lead abatement projects;

(E)(1) Record-keeping and reporting requirements for clinical laboratories, environmental lead analytical laboratories, lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, and lead abatement workers for lead abatement projects and record-keeping and reporting requirements for clinical laboratories, environmental lead analytical laboratories, and clearance technicians for clearance examinations;

(2) Record-keeping and reporting requirements regarding lead poisoning for physicians, in addition to the requirements of section 3701.25 of the Revised Code;

(3) Information that is required to be reported under rules based on divisions (E)(1) and (2) of this section and that is a medical record is not a public record under section 149.43 of the Revised Code and shall not be released, except in aggregate statistical form.

(F) Environmental sampling techniques for use in collecting samples of air, water, dust, paint, and other materials;

(G) Requirements for a respiratory protection plan prepared in accordance with section 3742.07 of the Revised Code;

(H) Requirements under which a manufacturer of encapsulants must demonstrate evidence of the safety and durability of its encapsulants by providing results of testing from an independent laboratory indicating that the encapsulants meet the standards developed by the "E06.23.30 task group on encapsulants," which is the task group of the lead hazards associated with buildings subcommittee of the performance of buildings committee of the American society for testing and materials.

Sec. 3742.04. (A) The director of health shall do all of the following:

(1) Administer and enforce the requirements of sections 3742.01 to 3742.19 and 3742.99 of the Revised Code and the rules adopted pursuant to those sections;

(2) Examine records and reports submitted by lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, lead abatement workers, and clearance technicians in accordance with section 3742.05 of the Revised Code to determine whether the requirements of this chapter are being met;

(3) Examine records and reports submitted by physicians, clinical laboratories, and environmental lead analytical laboratories under section 3701.25 or 3742.09 of the Revised Code;

(4) Issue approval to manufacturers of encapsulants that have done all of the following:

(a) Submitted an application for approval to the director on a form prescribed by the director;

(b) Paid the application fee established by the director;

(c) Submitted results from an independent laboratory indicating that the manufacturer's encapsulants satisfy the requirements established in rules adopted under division (H) of

section 3742.03 of the Revised Code;

(d) Complied with rules adopted by the ~~public health council~~ director regarding durability and safety to workers and residents.

(5) Establish liaisons and cooperate with the directors or agencies in states having lead abatement, licensing, accreditation, certification, and approval programs to promote consistency between the requirements of this chapter and those of other states in order to facilitate reciprocity of the programs among states;

(6) Establish a program to monitor and audit the quality of work of lead inspectors, lead risk assessors, lead abatement project designers, lead abatement contractors, lead abatement workers, and clearance technicians. The director may refer improper work discovered through the program to the attorney general for appropriate action.

(B) In addition to any other authority granted by this chapter, the director of health may do any of the following:

(1) Employ persons who have received training from a program the director has determined provides the necessary background. The appropriate training may be obtained in a state that has an ongoing lead abatement program under which it conducts educational programs.

(2) Cooperate with the United States environmental protection agency in any joint oversight procedures the agency may propose for laboratories that offer lead analysis services and are accredited under the agency's laboratory accreditation program;

(3) Advise, consult, cooperate with, or enter into contracts or cooperative agreements with any person, government entity, interstate agency, or the federal government as the director considers necessary to fulfill the requirements of this chapter and the rules adopted under it.

Sec. 3742.05. (A)(1) The director of health shall issue lead inspector, lead abatement contractor, lead risk assessor, lead abatement project designer, lead abatement worker, and clearance technician licenses. The director shall issue a license to an applicant who meets all of the following requirements:

(a) Submits an application to the director on a form prescribed by the director;

(b) Meets the licensing and training requirements established ~~by the public health council~~ in rules adopted under section 3742.03 of the Revised Code;

(c) Successfully completes the licensing examination for the applicant's area of expertise administered under section 3742.08 of the Revised Code and any training required by the director under that section;

(d) Pays the license fee established ~~by the public health council~~ in rules adopted under section 3742.03 of the Revised Code;

(e) Provides the applicant's social security number and any information the director may require to demonstrate the applicant's compliance with this chapter and the rules adopted under it.

(2) An individual may hold more than one license issued under this section, but a separate application is required for each license.

(B) A license issued under this section expires two years after the date of issuance. The director shall renew a license in accordance with the standard renewal procedure set forth in Chapter 4745. of the Revised Code, if the licensee does all of the following:

(1) Continues to meet the requirements of division (A) of

this section;

(2) Demonstrates compliance with procedures to prevent public exposure to lead hazards and for worker protection during lead abatement projects established ~~by rule~~ in rules adopted ~~by the public health council~~ under section 3742.03 of the Revised Code;

(3) Meets the record-keeping and reporting requirements for lead abatement projects or clearance examinations established ~~by rule~~ in rules adopted ~~by the public health council~~ under section 3742.03 of the Revised Code;

(4) Pays the license renewal fee established ~~by rule~~ in rules adopted ~~by the public health council~~ under section 3742.03 of the Revised Code.

(C) An individual licensed, certified, or otherwise approved under the law of another state to perform functions substantially similar to those of a lead inspector, lead abatement contractor, lead risk assessor, lead abatement project designer, lead abatement worker, or clearance technician may apply to the director of health for licensure in accordance with the procedures set forth in division (A) of this section. The director shall license an individual under this division on a determination that the standards for licensure, certification, or approval in that state are at least substantially equivalent to those established by this chapter and the rules adopted under it. The director may require an examination for licensure under this division.

Sec. 3742.30. Each child at risk of lead poisoning shall undergo a blood lead screening test to determine whether the child has lead poisoning. The at-risk children shall undergo the test at times determined by rules the ~~public~~ director of health ~~council~~ shall adopt in accordance with Chapter 119. of the Revised Code that are consistent with the guidelines established by the centers for disease control and prevention in the public health service of

the United States department of health and human services. The rules shall specify which children are at risk of lead poisoning.

Neither this section nor the rules adopted under it affect the coverage of blood lead screening tests by any publicly funded health program, including the medicaid program established by Chapter 5111. of the Revised Code. Neither this section nor the rules adopted under it apply to a child if a parent of the child objects to the test on the grounds that the test conflicts with the parent's religious tenets and practices.

Sec. 3742.31. (A) The director of health shall establish, promote, and maintain a child lead poisoning prevention program. The program shall provide statewide coordination of screening, diagnosis, and treatment services for children under age six, including both of the following:

(1) Collecting the social security numbers of all children screened, diagnosed, or treated as part of the program's case management system;

(2) Disclosing to the office of ~~Ohio health plans~~ medical assistance in the department of job and family services on at least an annual basis the identity and lead screening test results of each child screened pursuant to section 3742.30 of the Revised Code. The director shall collect and disseminate information relating to child lead poisoning and controlling lead hazards.

(B) The director of health shall operate the child lead poisoning prevention program in accordance with rules adopted under section 3742.50 of the Revised Code. The director may enter into an interagency agreement with one or more other state agencies to perform one or more of the program's duties. The director shall supervise and direct an agency's performance of such a duty.

Sec. 3742.32. (A) The director of health shall appoint an advisory council to assist in the ongoing development and implementation of the child lead poisoning prevention program created under section 3742.31 of the Revised Code. The advisory council shall consist of the following members:

(1) A representative of the office of ~~Ohio health plans~~ medical assistance in the department of job and family services;

(2) A representative of the bureau of child care in the department of job and family services;

(3) A representative of the department of environmental protection;

(4) A representative of the department of education;

(5) A representative of the department of development;

(6) A representative of the Ohio apartment owner's association;

(7) A representative of the Ohio help end lead poisoning coalition;

(8) A representative of the Ohio environmental health association;

(9) An Ohio representative of the national paint and coatings association.

(B) The advisory council shall do both of the following:

(1) Provide the director with advice regarding the policies the child lead poisoning prevention program should emphasize, preferred methods of financing the program, and any other matter relevant to the program's operation;

(2) Submit a report of the state's activities to the governor, president of the senate, and speaker of the house of representatives on or before the first day of March each year.

(C) The advisory council is not subject to sections 101.82 to 101.87 of the Revised Code.

Sec. 3742.47. (A) A person seeking approval of a training program in either essential maintenance practices or lead-safe renovation shall apply for approval to the director of health. The application shall be made on a form prescribed by the director and shall include the fee established under division (B) of this section. The director shall issue approval to the applicant if the applicant demonstrates to the satisfaction of the director that the training program will meet the following requirements and any other training program requirements established by rules adopted under section 3742.50 of the Revised Code:

(1) Conducts the training program in a period of time that does not exceed six hours;

(2) Administers an examination established by rule of the ~~public health council~~ director at the end of the training program to each person who completes the training;

(3) Grades each examination not later than one week after its completion and determines whether the person who took the examination received a passing score;

(4) Not later than one week after the examination is completed provides written proof of training program completion to each person who completes the program and passes the examination.

(B) The director of health shall establish an application fee for approving training programs under this section. The fee shall be reasonable and shall not exceed the expenses incurred in conducting the approval of training programs. An application fee submitted under division (A) of this section is nonrefundable.

Sec. 3742.50. (A) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code

establishing all of the following:

(1) Procedures necessary for the development and operation of the child lead poisoning prevention program established under section 3742.31 of the Revised Code;

(2) Standards and procedures for conducting investigations and risk assessments under sections 3742.35 and 3742.36 of the Revised Code;

(3) Standards and procedures for issuing lead hazard control orders under section 3742.37 of the Revised Code, including standards and procedures for determining appropriate deadlines for complying with lead hazard control orders;

(4) The level of lead in human blood that is hazardous to human health, consistent with the guidelines issued by the centers for disease control and prevention in the public health service of the United States department of health and human services;

(5) The level of lead in paint, dust, and soil that is hazardous to human health;

(6) Standards and procedures to be followed when implementing preventive treatments for the control of lead hazards pursuant to section 3742.41 of the Revised Code that are based on information from the United States environmental protection agency, department of housing and urban development, occupational safety and health administration, or other agencies with recommendations or guidelines regarding implementation of preventive treatments;

(7) Standards that must be met to pass a clearance examination;

(8) Procedures for approving under section 3742.47 of the Revised Code training programs in essential maintenance practices and lead-safe renovation and requirements, in addition to those specified in section 3742.47 of the Revised Code, that a program

must meet to receive approval;

(9) The examination to be administered by a training program approved under section 3742.47 of the Revised Code and the examination's passing score.

(B) The ~~public health council~~ director shall establish procedures for revising its rules to ensure that the child lead poisoning prevention activities conducted under this chapter continue to meet the requirements necessary to obtain any federal funding available for those activities, including requirements established by the United States environmental protection agency, United States department of housing and urban development, or any other federal agency with jurisdiction over activities pertaining to child lead poisoning prevention.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The state fire marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 3743.02 of the Revised Code. The state fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer

shall notify the state fire marshal in writing. The state fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks, if the state fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks.

Upon receipt of the notification and additional documentation required by the state fire marshal, the state fire marshal shall inspect the premises of the fireworks plant to determine if the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.05 of the Revised Code. The state fire marshal shall issue a written authorization to the manufacturer for the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks if the state fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to those sections and rules. Upon authorizing a change in manufacturing of fireworks to include the processing of fireworks, the state fire marshal shall make notations on the manufacturer's license and in the list of licensed manufacturers in accordance with section 3743.03 of the Revised Code.

On or before June 1, 1998, a licensed manufacturer shall install, in every licensed building in which fireworks are manufactured, stored, or displayed and to which the public has access, interlinked fire detection, smoke exhaust, and smoke

evacuation systems that are approved by the superintendent of ~~labor~~ industrial compliance, and shall comply with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code. Notwithstanding section 3743.59 of the Revised Code, the construction and safety requirements established in this division are not subject to any variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the fireworks plant as described in the application for licensure or in the notification submitted under division (B) of this section, except that a licensed manufacturer shall not engage in the processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale the fireworks manufactured by the manufacturer, to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, also may possess for sale and sell pursuant to division (C)(2) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell

any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the state fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, may also possess for sale and sell pursuant to division (C)(3) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

A licensed manufacturer of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D) The license of a manufacturer of fireworks shall be protected under glass and posted in a conspicuous place on the premises of the fireworks plant. Except as otherwise provided in this division, the license is not transferable or assignable. A

license may be transferred to another person for the same fireworks plant for which the license was issued if the assets of the plant are transferred to that person by inheritance or by a sale approved by the state fire marshal. The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

(E) The state fire marshal shall not place the license of a manufacturer of fireworks in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the state fire marshal by the manufacturer, annually shall attend a continuing education program. The state fire marshal shall develop the program and the state fire marshal or a person or public agency approved by the state fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training as approved by the state fire marshal for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the state fire marshal with notice of the date, time, and place of all in-service training. For any program conducted under this division, the state fire marshal shall, in accordance with rules adopted by the state fire marshal under Chapter 119. of the Revised Code, establish the subjects to be taught, the length of classes, the standards for approval, and time periods for notification by the licensee to the state fire marshal of any in-service training.

(G) A licensed manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type

specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the state fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the state fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The state fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the state fire marshal in accordance with rules the state fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the state fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the state fire marshal pursuant to section 3743.05 of the Revised Code.

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after September 29, 2005.

(f) The state fire marshal approves the application for expansion.

(2) The state fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the state fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are

satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the state fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.

(J)(1) A licensee who obtains approval for the use of a storage location in accordance with division (I) of this section shall use the storage location exclusively for the following activities, in accordance with division (C) of this section:

(a) The packaging, assembling, or storing of fireworks, which shall only occur in buildings or structures approved for such hazardous uses by the building code official having jurisdiction for the storage location or, for 1.4G fireworks, in containers or trailers approved for such hazardous uses by the state fire marshal if such containers or trailers are not subject to regulation by the building code adopted in accordance with Chapter 3781. of the Revised Code. All such storage shall be in accordance with the rules adopted by the state fire marshal under division (G) of section 3743.05 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed manufacturer shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of this section, or pursuant to section 3743.44 or 3743.45 of the Revised Code, at the

storage location approved under this section.

(3) A storage location may not be relocated for a minimum period of five years after the storage location is approved by the state fire marshal in accordance with division (I) of this section.

(K) The licensee shall prohibit public access to the storage location. The state fire marshal shall adopt rules to describe the acceptable measures a manufacturer shall use to prohibit access to the storage site.

Sec. 3743.06. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.05 of the Revised Code, licensed manufacturers of fireworks shall operate their fireworks plants in accordance with the following:

(A) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a fireworks plant shall be posted on the premises in a manner determined by the fire marshal.

(B) Reasonable precautions shall be taken to protect the premises of a fireworks plant from trespass, loss, theft, or destruction. Only persons employed by the manufacturer, authorized governmental personnel, and persons who have obtained permission from a member of the manufacturer's office to be on the premises, are to be allowed to enter and remain on the premises.

(C) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a fireworks plant is prohibited, except that a manufacturer may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no manufacturing, handling, sales, or storage of fireworks takes

place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(D) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a manufacturer.

(E) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of the fireworks plant, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(F) A manufacturer shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to the premises of its fireworks plant.

(G) Each fireworks plant shall have at least one class 1 magazine that is approved by the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and that is otherwise in conformity with federal law. This division does not apply to fireworks plants existing on or before August 3, 1931.

(H) Awnings, tents, and canopies shall not be used as facilities for the sale or storage of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(I) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any

structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks, nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

(J) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal, that the facility is closed to all public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business as approved by the fire marshal, the licensed manufacturer shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(K) If any fireworks item is removed from its original package or is manufactured with any fuse other than a safety fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(L) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

(1) A deputy sheriff;

(2) A law enforcement officer of a municipal corporation, township, or township or joint police district;

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(M) All doors of all buildings on the licensed premises shall swing outward.

(N) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section ~~4905.83~~ 4923.99 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.19. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.18 of the Revised Code, licensed wholesalers of fireworks shall conduct their business operations in accordance with the following:

(A) A wholesaler shall conduct its business operations from the location described in its application for licensure or in a notification submitted under division (B) of section 3743.17 of the Revised Code.

(B) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a wholesaler shall be posted on the premises as determined by the fire marshal.

(C) Reasonable precautions shall be taken to protect the

premises of a wholesaler from trespass, loss, theft, or destruction.

(D) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler is prohibited, except that a wholesaler may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no sales, handling, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(E) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a wholesaler.

(F) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of a wholesaler, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(G) A wholesaler shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to its premises.

(H) Each building used in the sale of fireworks shall be kept open to the public for at least four hours each day between the hours of eight a.m. and five p.m., five days of each week, every week of the year. Upon application from a licensed wholesaler, the fire marshal may waive any of the requirements of this division.

(I) Awnings, tents, or canopies shall not be used as facilities for the storage or sale of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a

shaded area for patrons waiting to enter the public sales area.

(J) 1.4G fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall. If the licensee installs and properly maintains an early suppression fast response sprinkler system or equivalent fire suppression system as described in the fire code adopted by the fire marshal in accordance with section 3737.82 of the Revised Code throughout the structure, a fire barrier wall may be substituted for a fire wall between the areas to which the public has access and the storage portions of the structure.

(K) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal under division (I) of this section, that the facility is closed to public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business, the licensed wholesaler shall notify in advance the appropriate insurance company and fire chief

or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(L) If any fireworks item is removed from its original package or is manufactured with any fuse other than a fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(M) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

(1) A deputy sheriff;

(2) A law enforcement officer of a municipal corporation, township, or township or joint police district;

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(N) All doors of all buildings on the licensed premises shall swing outward.

(O) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section ~~4905.83~~ 4923.99 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.25. (A)(1) Except as described in division (A)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Revised Code and rules adopted by the state fire marshal under Chapter 119. of the Revised Code. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under section 3743.51 of the Revised Code, that the exhibitor possesses a valid exhibition permit issued in accordance with section 3743.54 of the Revised Code, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

(1) The direct sale and shipment of fireworks to a person outside of this state;

(2) From an approved retail sales showroom as described in this section;

(3) From a representative sample showroom as described in this section;

(4) By delivery of wholesale fireworks to a purchaser at a

licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.

(5) Any other method as described in rules adopted by the state fire marshal under Chapter 119. of the Revised Code.

(C) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

A representative sample showroom shall consist of a structure constructed and maintained in accordance with the nonresidential building code adopted under Chapter 3781. of the Revised Code and the fire code adopted under section 3737.82 of the Revised Code for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by rules adopted by the state fire marshal pursuant to Chapter 119. of the Revised Code.

If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of ~~labor~~ industrial compliance in the department of commerce.

(2) A fireworks showroom that first begins to operate on or after June 30, 1997, and to which the public has access for retail purposes shall not exceed five thousand square feet in floor area.

(3) A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the state fire marshal and superintendent showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the state fire marshal and superintendent.

(4) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

Sec. 3745.01. There is hereby created the environmental protection agency, headed by the director of environmental

protection. The agency, under the supervision of the director, shall administer the laws pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; the cessation of chemical handling operations; the prevention, control, and abatement of air and water pollution; public water supply; comprehensive water resource management planning; products that contain mercury as defined in section 3734.61 of the Revised Code; and the disposal and treatment of solid wastes, infectious wastes, construction and demolition debris, hazardous waste, sewage, industrial waste, and other wastes. The director may do all of the following:

(A) Provide such methods of administration, appoint such personnel, make such reports, and take such other action as may be necessary to comply with the requirements of the federal laws and regulations pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; air and water pollution control; public water supply; water resource planning; and waste disposal and treatment;

(B) Procure by contract the temporary or intermittent services of experts or consultants, or organizations thereof, when those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(C) Advise, consult, cooperate, and enter into contracts or agreements, including consensual administrative order agreements, with any other agencies of the state, the federal government, other states, ~~and~~ interstate agencies, and persons and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter and Chapters 3704., 3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code;

(D) Establish advisory boards in accordance with section 121.13 of the Revised Code;

(E) Accept on behalf of the state any grant, gift, or contribution made for toxic chemical release reporting, air or water pollution control, public water supply, water resource planning, waste disposal or treatment, or related purposes, and expend it for those purposes;

(F) Make an annual report to the governor and the general assembly on activities and expenditures as well as recommendations for such additional legislation as the director considers appropriate to carry out the director's duties or accomplish the purposes of this section;

(G) Enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and grant or accept easements or sell real property pursuant to section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as applicable.

The agency shall utilize the laboratory facilities of the department of health and other state institutions and agencies to the maximum extent that the utilization is practicable, economical, and technically satisfactory.

The director shall maintain and keep available for public inspection, at the director's principal office, a current register of all applications filed for permits, leases, licenses, variances, certificates, and approval of plans and specifications and of publicly owned treatment works pretreatment programs under the director's jurisdiction, hearings pending, the director's final action thereon, and the dates on which the filings, hearings, and final actions occur. The director shall maintain and keep available for public inspection at the director's principal office all plans, reports, and other documents required to be filed with the emergency response commission under Chapter 3750. of the Revised Code and rules adopted under it, and all reports and other documents required to be filed with the director under

Chapter 3751. of the Revised Code and rules adopted under it, subject to the requirements of those chapters and rules adopted under them for the protection of trade secrets and confidential business information from disclosure to persons not authorized under those laws to receive trade secret or confidential business information.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) ~~Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:~~

~~(1) Fuel-burning equipment (boilers)~~

~~Input capacity (maximum) (million British thermal units per hour)~~	~~Permit to install~~
~~Greater than 0, but less than 10~~	~~$ 200~~
~~10 or more, but less than 100~~	~~400~~
~~100 or more, but less than 300~~	~~800~~
~~300 or more, but less than 500~~	~~1500~~
~~500 or more, but less than 1000~~	~~2500~~
~~1000 or more, but less than 5000~~	~~4000~~
~~5000 or more~~	~~6000~~

~~Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.~~

~~(2) Incinerators~~

~~Input capacity (pounds per hour)~~	~~Permit to install~~
~~0 to 100~~	~~$ 100~~
~~101 to 500~~	~~400~~
~~501 to 2000~~	~~750~~
~~2001 to 20,000~~	~~1000~~
~~more than 20,000~~	~~2500~~

~~(3)(a) Process~~

~~Process weight rate (pounds per hour)~~	~~Permit to install~~
~~0 to 1000~~	~~$ 200~~
~~1001 to 5000~~	~~400~~
~~5001 to 10,000~~	~~600~~
~~10,001 to 50,000~~	~~800~~
~~more than 50,000~~	~~1000~~

~~In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.~~

~~(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:~~

~~1211 Bituminous coal and lignite mining;~~

~~1213 Bituminous coal and lignite mining services;~~

~~1411 Dimension stone;~~

~~1422 Crushed and broken limestone;~~

~~1427 Crushed and broken stone, not elsewhere classified;~~

~~1442 Construction sand and gravel;~~

~~1446 Industrial sand;~~

~~3281 Cut stone and stone products;~~

~~3295 Minerals and earth, ground or otherwise treated.~~

~~(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:~~

~~Process weight rate (pounds per hour)~~	~~Permit to install~~
~~0 to 1000~~	~~$ 200~~
~~10,001 to 50,000~~	~~300~~
~~50,001 to 100,000~~	~~400~~
~~100,001 to 200,000~~	~~500~~
~~200,001 to 400,000~~	~~600~~
~~400,001 or more~~	~~700~~

~~(4) Storage tanks~~

~~Gallons (maximum useful capacity)~~	~~Permit to install~~
~~0 to 20,000~~	~~$ 100~~
~~20,001 to 40,000~~	~~150~~
~~40,001 to 100,000~~	~~200~~
~~100,001 to 250,000~~	~~250~~
~~250,001 to 500,000~~	~~350~~
~~500,001 to 1,000,000~~	~~500~~
~~1,000,001 or greater~~	~~750~~

~~(5) Gasoline/fuel dispensing facilities~~

~~For each gasoline/fuel dispensing facility~~	~~Permit to install~~
	~~$ 100~~

~~(6) Dry cleaning facilities~~

~~For each dry cleaning facility (includes all units at the facility)~~	~~Permit to install~~
	~~$ 100~~

~~(7) Registration status~~

~~For each source covered by registration status~~ ~~Permit to install $ 75~~

~~(C)(1)~~ Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in this division ~~(C)(1) of this section~~. For the purposes of ~~that~~ this division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

~~(a)~~(1) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

~~(b)~~(2) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

~~(c)~~(3) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under this division ~~(C)(1) of this section~~ do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

~~(2)~~(C)(1) The fees assessed under division ~~(C)(1)~~(B) of this section are for the purpose of providing funding for the Title V permit program.

~~(3)~~(2) The fees assessed under division ~~(C)(1)~~(B) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

~~(4)~~(3) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division ~~(C)~~(B) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, 2014, each

person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020
100 or more	3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director,

by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division ~~(C)(1)~~(B) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division ~~(C)(1)~~(B) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)
Input capacity (maximum)

(million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000
300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install
0 or more, but less than 10	$ 25
10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500
100 or more, but less than 250	1000
250 or more	2000

(3) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	$ 100
101 to 500	500
501 to 2000	1000
2001 to 20,000	1500
more than 20,000	3750

(4)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
1001 to 5000	500
5001 to 10,000	750

10,001 to 50,000	1000	40886
more than 50,000	1250	40887

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section. 40888 40889 40890 40891 40892 40893 40894 40895 40896

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised: 40897 40898 40899 40900 40901 40902 40903 40904 40905 40906

Major group 10, metal mining; 40907

Major group 12, coal mining; 40908

Major group 14, mining and quarrying of nonmetallic minerals; 40909

Industry group 204, grain mill products; 40910

2873 Nitrogen fertilizers; 40911

2874 Phosphatic fertilizers; 40912

3281 Cut stone and stone products; 40913

3295 Minerals and earth, ground or otherwise treated; 40914

4221 Grain elevators (storage only); 40915

5159 Farm related raw materials;

5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750
400,001 or more	900

(5) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	$ 100
20,001 to 40,000	150
40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750

(6) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install $ 100

(7) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install $ 100

(8) Registration status

For each source covered	Permit to install

by registration status $ 75

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	$75
Asbestos removal	$3/unit
Asbestos cleanup	$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division ~~(B) or~~ (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction

under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) ~~Fifty~~ (1) Money received under division (B) of this section shall be deposited in the state treasury to the credit of the Title V clean air fund created in section 3704.035 of the Revised Code. Annually, fifty cents per ton of each fee assessed under division ~~(C)~~(B) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be ~~deposited into~~ transferred using an interstate transfer voucher to the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. ~~The remainder of the moneys~~ In addition, annually, the amount of money necessary for the operation of the office of ombudsperson as determined under division (B) of that section shall be transferred to the state treasury to the credit of the small business ombudsperson fund created by that section.

(2) Money received by ~~the division pursuant to that division and moneys received by~~ the agency pursuant to divisions (D), (F),

(G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the non-Title V clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, 2014, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and

after July 1, 2014, except that the total fee shall not exceed fifteen thousand dollars through June 30, 2014, and five thousand dollars on and after July 1, 2014. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, 2012, and January 30, 2013, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of

this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2012, and January 30, 2013
5,000 to 49,999	$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550

20,000,001 to 50,000,000	25,900	41106
50,000,001 to 100,000,000	41,400	41107
100,000,001 or more	62,100	41108

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works. 41109 41110 41111 41112 41113 41114 41115 41116

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule: 41117 41118 41119 41120

Average daily discharge flow	Fee due by January 30, 2012, and January 30, 2013	
		41121 41122 41123 41124
5,000 to 49,999	$ 250	41125
50,000 to 250,000	1,200	41126
250,001 to 1,000,000	2,950	41127
1,000,001 to 5,000,000	5,850	41128
5,000,001 to 10,000,000	8,800	41129
10,000,001 to 20,000,000	11,700	41130
20,000,001 to 100,000,000	14,050	41131
100,000,001 to 250,000,000	16,400	41132
250,000,001 or more	18,700	41133

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section 41134 41135 41136 41137

shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying,

revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under ~~division (A)(1) of~~ section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Number of service connections	Fee amount
Not more than 49	$ 112
50 to 99	176

Number of service connections	Average cost per connection
100 to 2,499	$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34
10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80
200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under ~~division (A)(2) of~~ section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Population served	Fee amount
Fewer than 150	$ 112
150 to 299	176
300 to 749	384

750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under ~~division (A)(3) of~~ section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Number of wells or sources, other than surface water, supplying system	Fee amount
1	$112
2	112
3	176
4	278
5	568
System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water

source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, 2014, and fifteen thousand dollars on and after July 1, 2014. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, 2014, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	
MMO-MUG	$2,000
MF	2,100
MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400

standard chemistry	2,800
limited chemistry	1,550

On and after July 1, 2014, the following fee, on a per survey basis, shall be charged any such person:

microbiological	$ 1,650
organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

(a) "MF" means microfiltration.

(b) "MMO" means minimal medium ONPG.

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director ~~for~~ to take an examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code that is administered by the director, at the time the application is submitted, shall pay ~~an application fee of~~

~~forty-five dollars through November 30, 2014, and twenty-five dollars on and after December 1, 2014. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay~~ a fee in accordance with the following schedule through November 30, 2014:

Class A operator	~~$35~~ 80
Class I operator	~~60~~ 105
Class II operator	~~75~~ 120
Class III operator	~~85~~ 130
Class IV operator	~~100~~ 145

On and after December 1, 2014, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	~~$25~~ 50
Class I operator	~~$45~~ 70
Class II operator	~~55~~ 80
Class III operator	~~65~~ 90
Class IV operator	~~75~~ 100

Any person applying to the director for certification as an operator of a water supply system or wastewater system who has passed an examination administered by an examination provider approved by the director shall pay a certification fee of forty-five dollars.

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the

expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

Any person applying to be a water supply system or wastewater treatment system examination provider shall pay an application fee of five hundred dollars. Any person approved by the director as a water supply system or wastewater treatment system examination provider shall pay an annual fee that is equal to ten per cent of the fees that the provider assesses and collects for administering water supply system or wastewater treatment system certification examinations in this state for the calendar year. The fee shall be paid not later than forty-five days after the end of a calendar year.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A

person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to

September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall

pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a

permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, 2014, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, 2014. Except as provided in division (S)(3) of this section, through June 30, 2014, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, 2014, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (S)(3) of this section to the treasurer of state for deposit into the surface water protection

fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in

accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary

to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which ~~fees are~~ a fee is prescribed in ~~divisions (B)(7) and~~ division (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), ~~(C),~~ (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the

Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under

division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or

(b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The

director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund

exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment

processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to,

monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.112. During the month of August 1997, and biennially thereafter, the director of environmental protection shall enter into a contract for the performance of an independent evaluation of the Title V permit program to be conducted under the supervision of an independent certified public accountant. The evaluation shall review the finances, operations, revenues, costs, and expenditures of the Title V permit program under section 3704.036 of the Revised Code and the Title V clean air fund created in section 3704.035 of the Revised Code. The findings of

each such evaluation shall be set forth in a written report that shall include, without limitation, all of the following:

(A) A review and analysis of all expenditures from the Title V clean air fund for the Title V permit program;

(B) A review and analysis of all costs incurred by the environmental protection agency designated by the director to be costs of the Title V permit program;

(C) A review and analysis of all expenditures from the Title V clean air fund for costs not designated by the director as costs of the Title V permit program;

(D) A review and analysis of the adequacy of the fees assessed under division ~~(C)~~(B) of section 3745.11 for meeting the costs of the Title V permit program during the period reviewed by the evaluation.

Upon completion of the written report of each evaluation required by this section, the director shall provide copies of the report to the governor and the general assembly and shall make copies of it available to the public.

The reasonable and necessary expenses for conducting an evaluation required under this section are hereby deemed to be reasonable costs to administer the Title V permit program and shall be paid from moneys credited to the Title V clean air fund arising from the fees assessed under division ~~(C)~~(B) of section 3745.11 of the Revised Code.

Sec. 3748.04. The ~~public~~ director of health ~~council~~, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules doing all of the following:

(A) Listing types of radioactive material for which licensure by its handler is required and types of radiation-generating equipment for which registration by its handler is required, and

establishing requirements governing them. Rules adopted under division (A) of this section shall be compatible with applicable federal regulations and shall establish all of the following, without limitation:

(1) Requirements governing both of the following:

(a) The licensing and inspection of handlers of radioactive material. Standards established in rules adopted under division (A)(1)(a) of this section regarding byproduct material or any activity that results in the production of that material, to the extent practicable, shall be equivalent to or more stringent than applicable standards established by the United States nuclear regulatory commission.

(b) The registration and inspection of handlers of radiation-generating equipment. Standards established in rules adopted under division (A)(1)(b) of this section, to the extent practicable, shall be equivalent to applicable standards established by the food and drug administration in the United States department of health and human services.

(2) Identification of and requirements governing possession and use of specifically licensed and generally licensed quantities of radioactive material as either sealed sources or unsealed sources;

(3) A procedure for the issuance of and the frequency of renewal of the licenses of handlers of radioactive material, other than a license for a facility for the disposal of low-level radioactive waste, and of the certificates of registration of handlers of radiation-generating equipment;

(4) Procedures for suspending and revoking the licenses of handlers of radioactive material and the certificates of registration of handlers of radiation-generating equipment;

(5) Criteria to be used by the director of health in amending

the license of a handler of radioactive material or the certificate of registration of a handler of radiation-generating equipment subsequent to its issuance;

(6) Criteria for achieving and maintaining compliance with this chapter and rules adopted under it by licensees and registrants;

(7) Criteria governing environmental monitoring of licensed and registered activities to assess compliance with this chapter and rules adopted under it;

(8) Fees for both of the following:

(a) The licensing of handlers, other than facilities for the disposal of low-level radioactive waste, of radioactive material;

(b) The registration of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.

(9) A fee schedule for both of the following that includes fees for reviews, conducted during an inspection, of shielding plans or the adequacy of shielding:

(a) The inspection of handlers of radioactive material;

(b) The inspection of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.

(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(2) Establishing requirements for the achievement and maintenance of compliance with standards for the receipt, possession, use, storage, installation, transfer, servicing, and disposal of sources of radiation to prevent levels of radiation

that constitute an unreasonable or unnecessary risk to human health or the environment;

(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety aspects of the use and maintenance of radiation-generating equipment.

In adopting rules under divisions (A) and (B) of this section, the ~~council~~ director shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and human services and shall consider reports of the national council on radiation protection and measurement and the relevant standards of the American national standards institute.

(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation:

(1) Minimum training and experience requirements;

(2) Procedures for applying for certification;

(3) Procedures for review of applications and issuance of certificates;

(4) Procedures for suspending and revoking certification.

(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;

(E) Establishing the responsibilities of a radiation expert;

(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;

(G) Establishing fees to be paid by any facility that, on September 8, 1995, holds a license from the United States nuclear regulatory commission in order to provide moneys necessary for the transfer of licensing and other regulatory authority from the commission to the state pursuant to section 3748.03 of the Revised Code. Rules adopted under this division shall stipulate that fees so established do not apply to any functions dealing specifically with a facility for the disposal of low-level radioactive waste. Fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(H) Establishing fees to be collected annually from generators of low-level radioactive waste, which shall be based upon the volume and radioactivity of the waste generated and the costs of administering low-level radioactive waste management activities under this chapter and rules adopted under it. All fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this division that ~~has not been paid within ninety days~~ remains unpaid on the ninety-first day after the original invoice date shall be assessed ~~at two times~~ an additional amount equal to ten per cent of the original ~~invoiced~~ fee. ~~Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.~~

(I) Establishing requirements governing closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of a facility licensed under this chapter

and rules adopted under it. Rules adopted under division (I) of this section shall include, without limitation, all of the following:

(1) Standards and procedures to ensure that a licensee prepares a decommissioning funding plan that provides an adequate financial guaranty to permit the completion of all requirements governing the closure, decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with a licensed activity;

(2) For licensed activities where radioactive material that will require surveillance or care is likely to remain at the site after the licensed activities cease, as indicated in the application for the license submitted under section 3748.07 of the Revised Code, standards and procedures to ensure that the licensee prepares an additional decommissioning funding plan for long-term surveillance and care, before termination of the license, that provides an additional adequate financial guaranty as necessary to provide for that surveillance and care;

(3) For the purposes of the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section, the types of acceptable financial guaranties, which shall include bonds issued by fidelity or surety companies authorized to do business in the state, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts, or other similar types of arrangements, but shall not include any arrangement that constitutes self-insurance;

(4) A requirement that the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section contain financial guaranties in amounts sufficient to ensure compliance with any standards established by the United States nuclear regulatory commission, or by the state if it has

become an agreement state pursuant to section 3748.03 of the Revised Code, pertaining to closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of licensed activities and sites of licensees.

Standards established in rules adopted under division (I) of this section regarding any activity that resulted in the production of byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, to the extent practicable, shall be equivalent to or more stringent than standards established by the United States nuclear regulatory commission for sites at which ores were processed primarily for their source material content and at which byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, is deposited.

(J) Establishing criteria governing inspections of a facility for the disposal of low-level radioactive waste, including, without limitation, the establishment of a resident inspector program at such a facility;

(K) Establishing requirements and procedures governing the filing of complaints under section 3748.16 of the Revised Code, including, without limitation, those governing intervention in a hearing held under division (B)(3) of that section.

Sec. 3748.05. (A) The director of health shall do all of the following:

(1) Administer and enforce this chapter and the rules adopted under it;

(2) Collect and make available information relating to sources of radiation;

(3) Ensure the review of plans and specifications, submitted in accordance with rules adopted by the ~~public health council~~

director, for the control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment;

(4) Review reports of quality assurance audits performed by certified radiation experts under this chapter and the rules adopted under it;

(5) Ensure that programs for the control of sources of radiation are developed with due regard for compatibility with federal programs for the regulation of byproduct, source, and special nuclear materials;

(6) In accordance with Chapter 119. of the Revised Code, adopt, and subsequently may amend and rescind, rules providing for the administrative assessment and collection of monetary penalties for failure by any facility licensed under this chapter and rules adopted under it to comply with this chapter and those rules. The director may require the submission of compliance schedules and other related information. Any orders issued or payments or other requirements imposed pursuant to rules adopted under division (A)(6) of this section shall not affect any civil or criminal enforcement proceeding brought under this chapter or any other provision of state or local law. Moneys collected as administrative penalties imposed pursuant to rules adopted under division (A)(6) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The moneys shall be used solely to administer and enforce this chapter and the rules adopted under it.

(7) Maintain files of both of the following:

(a) All license and registration applications, issuances, denials, amendments, renewals, suspensions, and revocations and any administrative or judicial action pertaining to them;

(b) All rules adopted under this chapter, or proposed to be adopted, relating to the regulation of sources of radiation and proceedings on them.

(B) The director may do any or all of the following:

(1) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, interstate agencies, political subdivisions, industries, and other affected groups in furtherance of the purposes of this chapter and the rules adopted under it;

(2) Accept and administer grants from the federal government and from other sources, public or private, for carrying out any of the director's functions under this chapter and the rules adopted under it;

(3) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the detection and control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment, the measurement of radiation, the evaluation of potential effects on health of cumulative or acute exposure to radiation, the development and improvement of methods to limit and reduce the generation of radioactive waste, and related problems as the director considers necessary or advisable;

(4) In accordance with Chapter 119. of the Revised Code, adopt rules establishing criteria under which other agencies of the state or private entities may perform inspections of x-ray equipment at registered dental facilities at the request of the facility or pursuant to contract with the department;

(5) Exercise all incidental powers necessary to carry out the purposes of this chapter and the rules adopted under it, including, without limitation, the issuance of orders.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section 3748.04 of the Revised Code or orders issued by the director pursuant to section 3748.05 of the Revised Code.

(B)(1) An applicant proposing to handle radioactive material shall pay for a license or renewal of a license the appropriate fee specified in rules adopted under section 3748.04 of the Revised Code and listed on an invoice provided by the director. The applicant shall pay the fee on receipt of the invoice.

(2)(a) Except as provided in division (B)(2)(b) of this section, until fees are established in rules adopted under division (A)(8)(b) of section 3748.04 of the Revised Code, an applicant proposing to handle radiation-generating equipment shall pay for a certificate of registration or renewal of a certificate a biennial registration fee of two hundred sixty-two dollars.

Except as provided in division (B)(2)(b) of this section, on and after the effective date of the rules in which fees are established under division (A)(8)(b) of section 3748.04 of the Revised Code, an applicant proposing to handle radiation-generating equipment shall pay for a certificate of registration or renewal of a certificate the appropriate fee established in those rules.

The applicant shall pay the fees described in division (B)(2)(a) of this section at the time of applying for a certificate of registration or renewal of a certificate.

(b) An applicant that is, or is operated by, a medical

practitioner or medical-practitioner group and proposes to handle radiation-generating equipment shall pay for a certificate of registration or renewal of a certificate a biennial registration fee of two hundred sixty-two dollars. The applicant shall pay the fee at the time of applying for a certificate of registration or renewal of the certificate.

(C) All fees collected under this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(D) Any fee required under this section that ~~has not been paid within ninety days~~ remains unpaid on the ninety-first day after the original invoice date shall be assessed ~~at two times~~ an additional amount equal to ten per cent of the original ~~invoiced~~ fee. ~~Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.~~

(E) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

(F) Except as provided in division (B)(2) of this section, licenses and certificates of registration shall be effective for the applicable period established in rules adopted under section 3748.04 of the Revised Code. Licenses and certificates of registration shall be renewed in accordance with the renewal procedure established in rules adopted under section 3748.04 of the Revised Code.

Sec. 3748.10. (A) As used in this section, "person" means any legal entity defined as a person under section 1.59 of the Revised Code, the state or any agency of the state, any political

subdivision or agency of a political subdivision, and the United States or any agency or instrumentality of the United States other than the United States department of energy or the United States nuclear regulatory commission where state regulation of the treatment, recycling, storage, or disposal of low-level radioactive waste by either of those agencies is prohibited by federal law.

(B) No person shall treat, recycle, store, or dispose of any low-level radioactive waste except at a facility that is licensed for treatment, recycling, storage, or disposal of that waste by the director of health under this chapter and rules adopted under it or, until the state becomes an agreement state pursuant to section 3748.03 of the Revised Code, by the United States nuclear regulatory commission under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it regardless of whether the waste has been reclassified as "below regulatory concern" by the United States nuclear regulatory commission pursuant to any rule or standard adopted after January 1, 1990.

(C) Division (B) of this section does not apply to either of the following:

(1) Any low-level radioactive waste that on or before January 1, 1990, was authorized under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it to be treated, recycled, stored, or disposed of at a facility that has not been licensed under that act and regulations adopted under it;

(2) Any low-level radioactive waste that has received an exemption from the director of health under division (C)(2) of this section. If the United States nuclear regulatory commission declares its intent to institute a policy regarding the reclassification of waste as "below regulatory concern," the

~~public health council~~ director, in consultation with the environmental protection agency, shall adopt rules in accordance with Chapter 119. of the Revised Code that govern the granting of such exemptions and that do at least all of the following:

(a) Establish an application procedure to be followed by the generator of a low-level radioactive waste who wishes to obtain an exemption for that waste under division (C)(2) of this section;

(b) Require that in order to receive an exemption, a low-level radioactive waste shall have been reclassified as "below regulatory concern" by the United States nuclear regulatory commission after August 19, 1992. The rules adopted under division (C)(2)(b) of this section shall stipulate that such a reclassification does not automatically qualify a low-level radioactive waste for an exemption under division (C)(2) of this section.

(c) Require an applicant to demonstrate with clear and convincing evidence that the low-level radioactive waste that is the subject of the application does not present a higher radioactive hazard than any low-level radioactive waste to which division (C)(1) of this section applies and that treatment, recycling, storage, or disposal of the waste at a facility that has not been licensed by the director under this chapter and rules adopted under it or, until the state becomes an agreement state pursuant to section 3748.03 of the Revised Code, by the United States nuclear regulatory commission under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it, will not harm public health or safety or the environment;

(d) Establish public notification procedures to be followed by the director for any public hearing held ~~by him~~ under division (C)(2) of this section.

The director shall review an application submitted ~~to him~~ under division (C)(2) of this section and shall hold a public hearing concerning the application before granting or denying the exemption requested. The director may grant an exemption to the low-level radioactive waste that is the subject of the application ~~if he determines~~ after determining that the generator has complied with the rules adopted under division (C)(2)(a) of this section and that the waste satisfies the requirements established in the rules adopted under divisions (C)(2)(b) and (c) of this section. The director shall maintain a list of all low-level radioactive wastes to which ~~he~~ the director has granted such an exemption.

Division (C)(2) of this section does not apply to any low-level radioactive waste generated at a nuclear power station.

Sec. 3748.12. The director of health shall certify radiation experts pursuant to rules adopted under division (C) of section 3748.04 of the Revised Code. The director shall issue a certificate to each person certified under this section. An individual certified by the director is qualified to develop, provide periodic review of, and conduct audits of the quality assurance program for sources of radiation for which such a program is required under division (A) of section 3748.13 of the Revised Code.

The ~~public health council~~ director shall establish an application fee for applying for certification and a biennial certification renewal fee in rules adopted under division (C) of section 3748.04 of the Revised Code. A certificate issued under this section shall expire two years after the date of its issuance. To maintain certification, a radiation expert shall apply to the director for renewal of certification in accordance with the standard renewal procedures established in Chapter 4745. of the Revised Code. The certification renewal fee is not required

for initial certification, but shall be paid for every renewal of certification. Fees collected under this section shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this section that ~~has not been paid within ninety days~~ remains unpaid on the ninety-first day after the original invoice date shall be assessed ~~at two times~~ an additional amount equal to ten per cent of the original ~~invoiced~~ fee. ~~Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.~~

Sec. 3748.13. (A) The director of health shall inspect sources of radiation for which licensure or registration by the handler is required, and the sources' shielding and surroundings, according to the schedule established in rules adopted under division (D) of section 3748.04 of the Revised Code. In accordance with rules adopted under section 3748.04 of the Revised Code, the director shall inspect all records and operating procedures of handlers that install or service sources of radiation and all sources of radiation for which licensure of radioactive material or registration of radiation-generating equipment by the handler is required. The director may make other inspections upon receiving complaints or other evidence of a violation of this chapter or rules adopted under it.

The director shall require any hospital registered under division (A) of section 3701.07 of the Revised Code to develop and maintain a quality assurance program for all sources of radiation-generating equipment. A certified radiation expert shall conduct oversight and maintenance of the program and shall file a report of audits of the program with the director on forms prescribed by the director. The audit reports shall become part of

the inspection record.

(B)(1) Except as provided in division (B)(2) of this section, a facility shall pay inspection fees for radioactive material and radiation-generating equipment according to the schedule and categories established in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) A facility that is, or is operated by, a medical practitioner or medical-practitioner group shall pay inspection fees for radiation-generating equipment according to the following schedule and categories:

First dental x-ray tube	$ 155.00
Each additional dental x-ray tube at the same location	$ 77.00
First medical x-ray tube	$ 307.00
Each additional medical x-ray tube at the same location	$ 163.00
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	$ 610.00
First nonionizing radiation-generating equipment of any kind	$ 307.00
Each additional nonionizing radiation-generating equipment of any kind at the same location	$ 163.00

(C)(1) Except as provided in division (C)(2) of this section, the fee for the inspection of a facility that proposes to handle radioactive material or radiation-generating equipment and is not licensed or registered, and for which no license or registration application is pending at the time of inspection, is four hundred seventy-four dollars plus the applicable fee specified in rules

adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and proposes to handle radiation-generating equipment, the fee for an inspection if the facility is not licensed or registered, and no license or registration is pending at the time of inspection, is four hundred seventy-four dollars plus the fee applicable under the schedule in division (B)(2) of this section.

(D)(1) Except as provided in division (D)(2) of this section, for a facility that handles radioactive material or radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is the amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and handles radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the applicable fee under the schedule in division (B)(2) of this section.

(E) The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers a review to be necessary.

(1) Except as provided in division (E)(2) of this section, the fee for the review is the applicable amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical

practitioner or medical-practitioner group and handles or proposes to handle radiation-generating equipment, the fee for the review is seven hundred sixty-two dollars for each room where a source of radiation is used and is in addition to any other fee applicable under the schedule in division (B)(2) of this section.

(F) All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees shall be deposited in the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(G) Any fee required under this section that ~~has not been paid within ninety days~~ remains unpaid on the ninety-first day after the original invoice date shall be assessed ~~at two times~~ an additional amount equal to ten per cent of the original ~~invoiced~~ fee. ~~Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.~~

(H) If the director determines that a board of health of a city or general health district is qualified to conduct inspections of radiation-generating equipment, the director may delegate to the board, by contract, the authority to conduct such inspections. In making a determination of the qualifications of a board of health to conduct those inspections, the director shall evaluate the credentials of the individuals who are to conduct the inspections of radiation-generating equipment and the radiation detection and measuring equipment available to them for that purpose. If a contract is entered into, the board shall have the same authority to make inspections of radiation-generating equipment as the director has under this chapter and rules adopted under it. The contract shall stipulate that only individuals approved by the director as qualified shall be permitted to inspect radiation-generating equipment under the contract's

provisions. The contract shall provide for such compensation for services as is agreed to by the director and the board of health of the contracting health district. The director may reevaluate the credentials of the inspection personnel and their radiation detecting and measuring equipment as often as the director considers necessary and may terminate any contract with the board of health of any health district that, in the director's opinion, is not satisfactorily performing the terms of the contract.

(I) The director may enter at all reasonable times upon any public or private property to determine compliance with this chapter and rules adopted under it.

Sec. 3748.15. No facility shall violate or fail to comply with any duty imposed by this chapter, fail to pay any administrative penalty assessed in accordance with rules adopted under division (A)(6) of section 3748.05 of the Revised Code, or violate or fail to comply with any valid order ~~of~~ issued or rule adopted by the director of health ~~issued or rule of the public health council adopted~~ under this chapter. Each day a violation continues is a separate offense.

Sec. 3748.20. (A) The governor, with the advice and consent of the senate, shall appoint a radiation advisory council, which shall consist of the following members:

(1) One individual who has recognized ability and credentials in the field of medical radiation physics;

(2) One individual who has recognized ability and credentials in the field of health physics;

(3) One individual holding the degree of doctor of medicine or doctor of osteopathy and licensed to practice medicine or surgery or osteopathic medicine and surgery, as applicable, under Chapter 4731. of the Revised Code who has recognized ability and

credentials in the practice of radiology;

(4) One individual who is licensed to practice dentistry under Chapter 4715. of the Revised Code;

(5) One individual holding the degree of doctor of medicine and licensed to practice medicine or surgery under Chapter 4731. of the Revised Code who has recognized ability and credentials in the field of nuclear medicine;

(6) One individual who has recognized ability and credentials in the field of public health or environmental science;

(7) One individual licensed as a podiatrist under Chapter 4731. of the Revised Code;

(8) One individual licensed as a chiropractor under Chapter 4734. of the Revised Code;

(9) One individual who is a qualified radiation safety officer or radiation protection manager from a facility in this state that is licensed for the use of radiation materials;

(10) One individual who has recognized ability and credentials in the field of radon measurement, mitigation, or health risk management;

(11) One individual who is a member of a statewide consumer or environmental advocacy organization;

(12) One individual representing the public;

(13) One individual who has recognized ability and experience in the administration and enforcement of federal radiation protection regulations, who shall be a nonvoting member.

The governor shall make the initial appointments to the council not later than December 7, 1995. Of the initial appointments, four shall be for a term of office of three years, four shall be for a term of office of four years, and four shall be for a term of office of five years. Thereafter, terms of office

for the members of the council shall be five years with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of the member's term or until a period of sixty days has elapsed, whichever occurs first.

The council shall hold four regular quarterly meetings each year. Special meetings may be held at the request of the chairperson of the council or the director of health. The chairperson shall be selected annually by members of the council during the first meeting of the calendar year. Following each meeting, the chairperson shall submit a report to the director summarizing the activities, discussion, and recommendations of the council. Seven voting members of the council constitute a quorum.

Members of the radiation advisory council shall receive a per diem compensation in an amount approved by the director and also shall be reimbursed for actual expenses incurred in the performance of their official duties.

The department of health shall provide the council the administrative support necessary to execute its duties.

(B) The radiation advisory council shall do all of the following:

(1) Advise and consult with the ~~public health council~~ director in the development of rules ~~proposed for adoption~~ to be adopted under section 3748.04 of the Revised Code;

(2) Advise and consult with the director concerning the administration, implementation, and enforcement of this chapter, including the implementation of the specific responsibilities delineated in section 3748.05 of the Revised Code;

(3) Advise and consult with the director in the development of inspection criteria, procedures, and guidelines to be used in the radiation control program established under this chapter and rules adopted under it;

(4) Prepare and submit to the director an annual report evaluating the department's administration of the radiation control program.

(C) The council shall establish committees to focus on specific components of the radiation control program established under this chapter and rules adopted under it. Chairpersons of the committees shall be appointed by the chairperson of the council and shall be members of the council. Other members of the committees shall be appointed by the chairperson of the council and may include individuals who are not members of the council.

The membership and responsibilities of each committee established under this division shall be subject to the approval of the director. Members of the committees shall be reimbursed for actual expenses incurred in the performance of their official duties.

Committee reports shall be presented to the council at each regular meeting of the council.

Sec. 3749.02. The ~~public~~ director of health ~~council~~ shall, subject to Chapter 119. of the Revised Code, adopt rules of general application throughout the state governing the issuance of licenses, approval of plans, layout, construction, sanitation, safety, and operation of public swimming pools, public spas, and

special use pools. Such rules shall not be applied to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable when the building or structure is either integral to or appurtenant to a public swimming pool, a public spa, or a special use pool.

Sec. 3749.03. (A) No person shall construct or install, or renovate or otherwise substantially alter, a public swimming pool, public spa, or ~~special-use~~ special use pool after September 10, 1987, until the plans for the pool or spa have been submitted to and approved by the director of health. Within thirty days of receipt of the plans, the director shall approve or disapprove them. The plans and approval required under this division do not apply to repairs or ordinary maintenance that does not substantially affect the manner of water recirculation or basic design of the public swimming pool, public spa, or ~~special-use~~ special use pool.

Any person aggrieved by the director's disapproval of plans under this division may, within thirty days following receipt of the director's notice of disapproval, request a hearing on the matter. The hearing shall be held in accordance with Chapter 119. of the Revised Code and may be appealed in the manner provided in that chapter.

(B) Prior to the issuance of a license to operate a newly constructed or altered public swimming pool, public spa, or ~~special-use~~ special use pool, the director or a licensor authorized by the director shall verify that the construction or alterations are consistent with the plans submitted and approved under division (A) of this section. The director or licensor authorized by the director shall have two working days from the time notification is received that a public swimming pool, public spa, or ~~special-use~~ special use pool is ready for an inspection to

verify the construction or alterations.

(C) ~~The~~ (1) Except as provided in division (C)(2) of this section, the fees for the approval of plans are as follows:

~~(1)~~(a) Five per cent of the total cost of the equipment and installation not to exceed two hundred seventy-five dollars for a public swimming pool, public spa, or ~~special-use~~ special use pool, or a combination thereof, that has less than two thousand square feet of surface area;

~~(2)~~(b) Five per cent of the total cost of the equipment and installation not to exceed five hundred fifty dollars for a public swimming pool, public spa, ~~special-use~~ special use pool, or a combination thereof, that has two thousand or more square feet of surface area.

~~After December 31, 1992, the public health council~~ (2) The director may, by rule adopted in accordance with Chapter 119. of the Revised Code, increase the fees established by this section.

(D) All plan approval fees shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. The fees shall be administered by the director and shall be used solely for the administration and enforcement of this chapter and the rules adopted thereunder.

(E) Plan approvals issued under this section shall not constitute an exemption from the land use and building requirements of the political subdivision in which the public swimming pool, public spa, or ~~special-use~~ special use pool is or is to be located.

Sec. 3749.04. (A) No person shall operate or maintain a public swimming pool, public spa, or ~~special-use~~ special use pool without a license issued by the licensor having jurisdiction.

(B) Every person who intends to operate or maintain an existing public swimming pool, public spa, or ~~special-use~~ special use pool shall, during the month of April of each year, apply to the licensor having jurisdiction for a license to operate the pool or spa. Any person proposing to operate or maintain a new or otherwise unlicensed public swimming pool, public spa, or ~~special-use~~ special use pool shall apply to the licensor having jurisdiction at least thirty days prior to the intended start of operation of the pool or spa. Within thirty days of receipt of an application for licensure of a public swimming pool, public spa, or ~~special-use~~ special use pool, the licensor shall process the application and either issue a license or otherwise respond to the applicant regarding the application.

(C) Each license issued shall be effective from the date of issuance until the last day of May of the following year.

(D) Each licensor administering and enforcing sections 3749.01 to 3749.09 of the Revised Code and the rules adopted thereunder may establish licensing and inspection fees in accordance with section 3709.09 of the Revised Code, which shall not exceed the cost of licensing and inspecting public swimming pools, public spas, and ~~special-use~~ special use pools.

(E) Except as provided in division (F) of this section and in division (B) of section 3749.07 of the Revised Code, all license fees collected by a licensor shall be deposited into a swimming pool fund, which is hereby created in each health district. The fees shall be used by the licensor solely for the purpose of administering and enforcing this chapter and the rules adopted under this chapter.

(F) An annual license fee established under division (D) of this section shall include any additional amount determined by rule of the ~~public~~ director of health ~~council~~, which the board of health shall collect and transmit to the director ~~of health~~

pursuant to section 3709.092 of the Revised Code. The amounts collected under this division shall be administered by the director of health and shall be used solely for the administration and enforcement of this chapter and the rules adopted under this chapter.

Sec. 3752.06. (A) Unless the owner or operator of a reporting facility has submitted to the director of environmental protection in connection with the facility a notice of the temporary discontinuation of all regulated operations at the facility in compliance with division (A)(1) of section 3752.09 of the Revised Code, has submitted an application for a waiver in compliance with or been issued a waiver under division (A) of section 3752.10 of the Revised Code, or, pursuant to division (B) of this section, has been granted an extension of time for compliance with divisions (A)(4) to (6) of this section, and except as provided in division (C) of this section, the owner or operator, not later than ninety days after the cessation of all regulated operations at the facility, shall do all of the following:

(1) Submit to the director a copy of the most recent emergency and hazardous chemical inventory form for the facility submitted to the emergency response commission in accordance with section 3750.08 of the Revised Code accompanied by a statement indicating whether any asbestos-containing materials are present at the facility;

(2) Submit to the director a copy of the current hazardous chemical list, or of each of the material safety data sheets, that the owner or operator is required to have on file with the commission under section 3750.07 of the Revised Code in connection with the facility;

(3) Submit to the director a list of every stationary tank,

vat, electrical transformer, and vessel of any type that contains or is contaminated with regulated substances and that is to remain at the facility; a precise description of the location of each; and an identification of the regulated substances that are in or contaminate each;

(4) Drain or remove all regulated substances from each stationary vat, tank, electrical transformer, and vessel, and from all piping, that is to remain at the facility and do any or a combination of the following:

(a) Transfer the regulated substances to another facility owned or operated by the owner or operator. If any regulated substances are transferred to another facility of the owner or operator located within this state, they shall be transferred to a facility that is operating. If any regulated substances are transferred to another facility of the owner or operator located outside this state, they shall be transferred in compliance with the applicable laws governing the receiving facility of the state in which the receiving facility is located.

(b) Lawfully transfer ownership of the regulated substances to another person through sale or otherwise;

(c) Cause the regulated substances to be transported off the premises of the facility and managed in compliance with the applicable provisions of Chapter 3734. of the Revised Code and rules adopted under that chapter; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and regulations adopted under it; or the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and regulations adopted under it; or, if transported out of state, to be managed in compliance with the waste management laws of the state to which the regulated substances are transported.

In the case of any regulated substance that also is a hazardous material identified or listed in regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, and that is to be transported off the premises of the facility, the owner or operator of the facility shall transport the regulated substance, or cause it to be transported, in compliance with the applicable rules adopted under ~~division (A) of section 4919.85, division (E) of section 4921.04, division (C) of section 4923.03, or division (C) of section 4923.20~~ Chapters 4905., 4921., and 4923. of the Revised Code.

(5) Remove from the facility all debris, nonstationary equipment and furnishings, nonstationary containers, and motor vehicles and rolling stock that contain or are contaminated with a regulated substance and do any or a combination of the following:

(a) Transfer the debris, equipment, furnishings, containers, and motor vehicles and rolling stock to another facility owned or operated by the owner or operator. If any such debris, equipment, furnishings, containers, or motor vehicles and rolling stock is transferred to another facility of the owner or operator located in this state, it shall be transferred to a facility that is operating. If any such debris, equipment, furnishings, containers, or motor vehicles and rolling stock is transferred to another facility of the owner or operator located outside this state, it only shall be transferred in compliance with the applicable laws governing the receiving facility of the state in which the receiving facility is located.

(b) Lawfully transfer ownership of the debris, equipment, furnishings, containers, and motor vehicles and rolling stock to another person through sale or otherwise;

(c) Cause the debris, equipment, furnishings, and containers to be transported off the premises of the facility and managed in

compliance with the applicable provisions of Chapter 3734. of the Revised Code and rules adopted under that chapter; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and regulations adopted under it; or the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and regulations adopted under it; or, if transported out of state, to be managed in compliance with the waste management laws of the state to which the debris, equipment, furnishings, and containers are transported.

(6) Make a written certification to the director that the actions required by divisions (A)(4) and (5) of this section have been completed in compliance with those divisions and any applicable rules adopted under section 3752.03 of the Revised Code. The certification shall be made on a form prescribed by the director and, in addition to the information required in division (A) of this section, shall include, without limitation, the owner's or operator's name and the address of the owner's or operator's principal office.

(B) Upon the written request of the owner or operator of a facility who is subject to division (A) of this section, the director, at ~~his~~ the director's discretion, may extend the length of time required for compliance with divisions (A)(4) to (6) of this section for any period of time the director considers reasonable and necessary if the director finds from the request that either of the following applies:

(1) The inability of the owner or operator to complete the required actions within the time prescribed in that division is due to circumstances that are temporary in nature and are beyond the control of the owner or operator;

(2) The owner or operator, exercising reasonable diligence, is unable to complete the required actions within the time prescribed in that division due to facility size, operational

complexity, or other such relevant factors.

Upon making a decision on a request submitted under division (B) of this section, the director shall mail notice of ~~his~~ the decision to the owner or operator by certified mail, return receipt requested, and, if the request was approved, notice of the length of the extension.

(C) An owner or operator of a reporting facility who is subject to this section is not required to perform the removal actions required by it or to make the certification required by division (A)(6) of this section with respect to hazardous waste stored, treated, or disposed of at the facility, or portion of the facility, for which the owner holds a valid hazardous waste facility installation and operation permit or renewal permit issued under section 3734.05 of the Revised Code or has obtained a generator identification number pursuant to rules adopted under section 3734.12 of the Revised Code. Instead, the owner shall comply with the applicable closure and post-closure care requirements established in rules adopted under section 3734.12 of the Revised Code.

(D) No person shall fail to comply with any provision of division (A) of this section within the time required by that division and any extension of that time granted under division (B) of this section, as appropriate.

Sec. 3770.06. (A) There is hereby created the state lottery gross revenue fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. All gross revenues received from sales of lottery tickets, fines, fees, and related proceeds in connection with the statewide lottery and all gross proceeds from statewide joint lottery games shall be deposited into the fund. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same

manner as, and subject to all provisions of law with respect to the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the director of the state lottery commission or the director's designee.

Except for gross proceeds from statewide joint lottery games, all revenues of the state lottery gross revenue fund that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not credited to lottery sales agents in the form of bonuses, commissions, or reimbursements, that are not paid to financial institutions to reimburse those institutions for sales agent nonsufficient funds, and that are collected from sales agents for remittance to insurers under contract to provide sales agent bonding services shall be transferred to the state lottery fund, which is hereby created in the state treasury. In addition, all revenues of the state lottery gross revenue fund that represent the gross proceeds from the statewide joint lottery games and that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not credited to lottery sales agents in the form of bonuses, commissions, or reimbursements, and that are not necessary to cover operating expenses associated with those games or to otherwise comply with the agreements signed by the governor that the director enters into under division (J) of section 3770.02 of the Revised Code or the rules the commission adopts under division (B)(5) of section 3770.03 of the Revised Code shall be transferred to the state lottery fund. All investment earnings of the fund shall be credited to the fund. Moneys shall be disbursed from the fund pursuant to vouchers approved by the director. Total disbursements for monetary prize awards to holders of winning lottery tickets in connection with the statewide lottery and purchases of goods and services awarded as prizes to holders of winning lottery tickets shall be of an amount equal to at least fifty per cent of the

total revenue accruing from the sale of lottery tickets.

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, there is hereby established in the state treasury the lottery profits education fund. Whenever, in the judgment of the director of ~~budget and management~~ the state lottery commission, the amount to the credit of the state lottery fund that does not represent proceeds from statewide joint lottery games is in excess of that needed to meet the maturing obligations of the commission and as working capital for its further operations, the director of the state lottery commission shall recommend the amount of the excess to be transferred to the lottery profits education fund, and the director of budget and management may transfer the excess to the lottery profits education fund in connection with the statewide lottery. In addition, whenever, in the judgment of the director of ~~budget and management~~ the state lottery commission, the amount to the credit of the state lottery fund that represents proceeds from statewide joint lottery games equals the entire net proceeds of those games as described in division (B)(5) of section 3770.03 of the Revised Code and the rules adopted under that division, the director of the state lottery commission shall recommend the amount of the proceeds to be transferred to the lottery profits education fund, and the director of budget and management may transfer those proceeds to the lottery profits education fund. ~~There shall also be credited to the fund any repayments of moneys loaned from the educational excellence investment fund.~~ Investment earnings of the lottery profits education fund shall be credited to the fund.

The lottery profits education fund shall be used solely for the support of elementary, secondary, vocational, and special education programs as determined in appropriations made by the general assembly, or as provided in applicable bond proceedings for the payment of debt service on obligations issued to pay costs

of capital facilities, including those for a system of common schools throughout the state pursuant to section 2n of Article VIII, Ohio Constitution. When determining the availability of money in the lottery profits education fund, the director of budget and management may consider all balances and estimated revenues of the fund.

(C) There is hereby established in the state treasury the deferred prizes trust fund. With the approval of the director of budget and management, an amount sufficient to fund annuity prizes shall be transferred from the state lottery fund and credited to the trust fund. The treasurer of state shall credit all earnings arising from investments purchased under this division to the trust fund. Within sixty days after the end of each fiscal year, the treasurer of state shall certify to the director of budget and management whether the actuarial amount of the trust fund is sufficient over the fund's life for continued funding of all remaining deferred prize liabilities as of the last day of the fiscal year just ended. Also, within that sixty days, the director of budget and management shall certify the amount of investment earnings necessary to have been credited to the trust fund during the fiscal year just ending to provide for such continued funding of deferred prizes. Any earnings credited in excess of the latter certified amount shall be transferred to the lottery profits education fund.

To provide all or a part of the amounts necessary to fund deferred prizes awarded by the commission in connection with the statewide lottery, the treasurer of state, in consultation with the commission, may invest moneys contained in the deferred prizes trust fund which represents proceeds from the statewide lottery in obligations of the type permitted for the investment of state funds but whose maturities are thirty years or less. Notwithstanding the requirements of any other section of the

Revised Code, to provide all or part of the amounts necessary to fund deferred prizes awarded by the commission in connection with statewide joint lottery games, the treasurer of state, in consultation with the commission, may invest moneys in the trust fund which represent proceeds derived from the statewide joint lottery games in accordance with the rules the commission adopts under division (B)(5) of section 3770.03 of the Revised Code. Investments of the trust fund are not subject to the provisions of division (A)(10) of section 135.143 of the Revised Code limiting to twenty-five per cent the amount of the state's total average portfolio that may be invested in debt interests and limiting to one-half of one per cent the amount that may be invested in debt interests of a single issuer.

All purchases made under this division shall be effected on a delivery versus payment method and shall be in the custody of the treasurer of state.

The treasurer of state may retain an investment advisor, if necessary. The commission shall pay any costs incurred by the treasurer of state in retaining an investment advisor.

(D) The auditor of state shall conduct annual audits of all funds and any other audits as the auditor of state or the general assembly considers necessary. The auditor of state may examine all records, files, and other documents of the commission, and records of lottery sales agents that pertain to their activities as agents, for purposes of conducting authorized audits.

The state lottery commission shall establish an internal audit program before the beginning of each fiscal year, subject to the approval of the auditor of state. At the end of each fiscal year, the commission shall prepare and submit an annual report to the auditor of state for the auditor of state's review and approval, specifying the internal audit work completed by the end of that fiscal year and reporting on compliance with the annual

internal audit program. The form and content of the report shall be prescribed by the auditor of state under division (C) of section 117.20 of the Revised Code.

(E) Whenever, in the judgment of the director of budget and management, an amount of net state lottery proceeds is necessary to be applied to the payment of debt service on obligations, all as defined in sections 151.01 and 151.03 of the Revised Code, the director shall transfer that amount directly from the state lottery fund or from the lottery profits education fund to the bond service fund defined in those sections. The provisions of this division are subject to any prior pledges or obligation of those amounts to the payment of bond service charges as defined in division (C) of section 3318.21 of the Revised Code, as referred to in division (B) of this section.

Sec. 3781.03. (A) The state fire marshal, the fire chief of a municipal corporation that has a fire department, or the fire chief of a township that has a fire department shall enforce the provisions of this chapter and Chapter 3791. of the Revised Code that relate to fire prevention.

(B) The superintendent of ~~labor~~ industrial compliance, or the building inspector or commissioner of buildings in a municipal corporation, county, or township in which the building department is certified by the board of building standards under section 3781.10 of the Revised Code shall enforce in the jurisdiction of each entity all the provisions in this chapter and Chapter 3791. of the Revised Code and any rules adopted pursuant to those chapters that relate to the construction, arrangement, and erection of all buildings or parts of buildings, as defined in section 3781.06 of the Revised Code, including the sanitary condition of those buildings in relation to heating and ventilation.

(C) The division of ~~labor~~ industrial compliance in the department of commerce, boards of health of health districts, certified departments of building inspection of municipal corporations, and county building departments that have authority to perform inspections pursuant to a contract under division (C)(1) of section 3703.01 of the Revised Code, subject to Chapter 3703. of the Revised Code, shall enforce this chapter and Chapter 3791. of the Revised Code and the rules adopted pursuant to those chapters that relate to plumbing. Building drains are considered plumbing for the purposes of enforcement of those chapters.

(D)(1) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, in cities having such departments, the boards of health of health districts, or the sewer purveyor, as appropriate, shall have complete authority to supervise and regulate the entire sewerage and drainage system in the jurisdiction in which it is exercising the authority described in this division, including the building sewer and all laterals draining into the street sewers.

(2) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, the boards of health of health districts, or the sewer purveyor, as appropriate, shall control and supervise the installation and construction of all drains and sewers that become a part of the sewerage system and shall issue all the necessary permits and licenses for the construction and installation of all building sewers and of all other lateral drains that empty into the main sewers. The department of the city engineer, the boards of health of health districts, and the sewer purveyor, as appropriate, shall keep a permanent record of the installation and location of every drain and sewer of the drainage and sewerage system of the jurisdiction in which it has exercised the authority described in this division.

(E) This section does not exempt any officer or department

from the obligation to enforce this chapter and Chapter 3791. of the Revised Code.

Sec. 3781.06. (A)(1) Any building that may be used as a place of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy by the public, any residential building, and all other buildings or parts and appurtenances of those buildings erected within this state, shall be so constructed, erected, equipped, and maintained that they shall be safe and sanitary for their intended use and occupancy.

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code shall be construed to limit the power of the ~~public health council~~ manufactured homes commission to adopt rules of uniform application governing manufactured home parks pursuant to section ~~3733.02~~ 4781.26 of the Revised Code.

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised Code do not apply to either of the following:

(1) Buildings or structures that are incident to the use for agricultural purposes of the land on which the buildings or structures are located, provided those buildings or structures are not used in the business of retail trade. For purposes of this division, a building or structure is not considered used in the business of retail trade if fifty per cent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller.

(2) Existing single-family, two-family, and three-family detached dwelling houses for which applications have been submitted to the director of job and family services pursuant to section 5104.03 of the Revised Code for the purposes of operating

type A family day-care homes as defined in section 5104.01 of the Revised Code.

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code:

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry.

(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all

applicable federal construction and safety standards.

(5) "Permanent foundation" means permanent masonry, concrete, or a footing or foundation approved by the manufactured homes commission pursuant to Chapter 4781. of the Revised Code, to which a manufactured or mobile home may be affixed.

(6) "Permanently sited manufactured home" means a manufactured home that meets all of the following criteria:

(a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

(b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred square feet;

(c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(d) The structure was manufactured after January 1, 1995;

(e) The structure is not located in a manufactured home park as defined by section ~~3733.01~~ 4781.01 of the Revised Code.

(7) "Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.

(8) "Sanitary," with respect to a building, means it is free from danger or hazard to the health of persons occupying or

frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of lighting, heating, ventilating, or plumbing.

(9) "Residential building" means a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house. "Residential building" includes a one-family, two-family, or three-family dwelling house that is used as a model to promote the sale of a similar dwelling house. "Residential building" does not include an industrialized unit as defined by division (C)(3) of this section, a manufactured home as defined by division (C)(4) of this section, or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(10) "Nonresidential building" means any building that is not a residential building or a manufactured or mobile home.

(11) "Accessory structure" means a structure that is attached to a residential building and serves the principal use of the residential building. "Accessory structure" includes, but is not limited to, a garage, porch, or screened-in patio.

Sec. 3781.102. (A) Any county or municipal building department certified pursuant to division (E) of section 3781.10 of the Revised Code as of September 14, 1970, and that, as of that date, was inspecting single-family, two-family, and three-family residences, and any township building department certified pursuant to division (E) of section 3781.10 of the Revised Code, is hereby declared to be certified to inspect single-family, two-family, and three-family residences containing industrialized units, and shall inspect the buildings or classes of buildings subject to division (E) of section 3781.10 of the Revised Code.

(B) Each board of county commissioners may adopt, by resolution, rules establishing standards and providing for the

licensing of electrical and heating, ventilating, and air conditioning contractors who are not required to hold a valid and unexpired license pursuant to Chapter 4740. of the Revised Code.

Rules adopted by a board of county commissioners pursuant to this division may be enforced within the unincorporated areas of the county and within any municipal corporation where the legislative authority of the municipal corporation has contracted with the board for the enforcement of the county rules within the municipal corporation pursuant to section 307.15 of the Revised Code. The rules shall not conflict with rules adopted by the board of building standards pursuant to section 3781.10 of the Revised Code or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the power of municipal corporations under Section 3 of Article XVIII, Ohio Constitution, to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of specialty contractors pursuant to section 715.27 of the Revised Code.

A board of county commissioners, pursuant to this division, may require all electrical contractors and heating, ventilating, and air conditioning contractors, other than those who hold a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license to engage in their respective occupations within the jurisdiction of the board's rules under this division.

(C) No board of county commissioners shall require any specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code to successfully complete an examination, test, or demonstration of

technical skills in order to engage in the type of contracting for which the license is held, within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(D) A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code before that specialty contractor may engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code, provided that the fee is the same for all specialty contractors who wish to engage in that type of contracting. If a board imposes such a fee, the board immediately shall permit a specialty contractor who presents proof of holding a valid and unexpired license and pays the required fee to engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(E) The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to division (E) of section 3781.10 of the Revised Code may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of

inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code.

(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following:

(1) Three per cent of the fees the political subdivision collects in connection with nonresidential buildings;

(2) One per cent of the fees the political subdivision collects in connection with residential buildings.

(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the board. The board shall pay the fees into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(2) All money credited to the ~~labor~~ industrial compliance operating fund under this division shall be used exclusively for the following:

(a) Operating costs of the board;

(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to division (E) of section 3781.10 of the Revised Code;

(c) Paying the expenses of the residential construction advisory committee, including the expenses of committee members as provided in section 4740.14 of the Revised Code.

(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of

satisfying the requirements of rules adopted under that division, a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code that is held by an electrical or heating, ventilating, and air conditioning contractor, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.

(I) A board of county commissioners shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter.

(J) As used in this section, "specialty contractor" means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code.

Sec. 3781.11. (A) The rules of the board of building standards shall:

(1) For nonresidential buildings, provide uniform minimum standards and requirements, and for residential buildings, provide standards and requirements that are uniform throughout the state, for construction and construction materials, including construction of industrialized units, to make residential and nonresidential buildings safe and sanitary as defined in section 3781.06 of the Revised Code;

(2) Formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

(3) Permit, to the fullest extent feasible, the use of

materials and technical methods, devices, and improvements, including the use of industrialized units which tend to reduce the cost of construction and erection without affecting minimum requirements for the health, safety, and security of the occupants or users of buildings or industrialized units and without preferential treatment of types or classes of materials or products or methods of construction;

(4) Encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material, and techniques, including methods employed to produce industrialized units;

(5) Not require any alteration or repair of any part of a school building owned by a chartered nonpublic school or a city, local, exempted village, or joint vocational school district and operated in conjunction with any primary or secondary school program that is not being altered or repaired if all of the following apply:

(a) The school building meets all of the applicable building code requirements in existence at the time of the construction of the building.

(b) The school building otherwise satisfies the requirements of section 3781.06 of the Revised Code.

(c) The part of the school building altered or repaired conforms to all rules of the board existing on the date of the repair or alteration.

(6) Not require any alteration or repair to any part of a workshop or factory that is not otherwise being altered, repaired, or added to if all of the following apply:

(a) The workshop or factory otherwise satisfies the requirements of section 3781.06 of the Revised Code.

(b) The part of the workshop or factory altered, repaired, or added conforms to all rules of the board existing on the date of plan approval of the repair, alteration, or addition.

(B) The rules of the board shall supersede and govern any order, standard, or rule of the division of ~~labor~~ industrial compliance in the department of commerce, division of the state fire marshal, the department of health, and of counties and townships, in all cases where such orders, standards, or rules are in conflict with the rules of the board, except that rules adopted and orders issued by the state fire marshal pursuant to Chapter 3743. of the Revised Code prevail in the event of a conflict.

(C) The construction, alteration, erection, and repair of buildings including industrialized units, and the materials and devices of any kind used in connection with them and the heating and ventilating of them and the plumbing and electric wiring in them shall conform to the statutes of this state or the rules adopted and promulgated by the board, and to provisions of local ordinances not inconsistent therewith. Any building, structure, or part thereof, constructed, erected, altered, manufactured, or repaired not in accordance with the statutes of this state or with the rules of the board, and any building, structure, or part thereof in which there is installed, altered, or repaired any fixture, device, and material, or plumbing, heating, or ventilating system, or electric wiring not in accordance with such statutes or rules is a public nuisance.

(D) As used in this section:

(1) "Nonpublic school" means a chartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(2) "Workshop or factory" includes manufacturing, mechanical, electrical, mercantile, art, and laundering establishments,

printing, telegraph, and telephone offices, railroad depots, and memorial buildings, but does not include hotels and tenement and apartment houses.

Sec. 3781.112. (A) As used in this section, "secured facility" means any of the following:

(1) A maternity ~~boardinghouse or lying-in hospital~~ unit, newborn care nursery, or maternity home licensed under ~~section 3711.02~~ Chapter 3711. of the Revised Code;

(2) A pediatric intensive care unit subject to rules adopted by the director of health pursuant to section 3702.11 of the Revised Code;

(3) A children's hospital, as defined in section ~~3702.51~~ 3727.01 of the Revised Code;

(4) A hospital that is licensed under section 5119.20 of the Revised Code to receive mentally ill persons;

(5) The portion of a nursing home licensed under section 3721.02 of the Revised Code or in accordance with section 3721.09 of the Revised Code in which specialized care is provided to residents of the nursing home who have physical or mental conditions that require a resident to be restricted in the resident's freedom of movement for the health and safety of the resident, the staff attending the resident, or the general public.

(B) A secured facility may take reasonable steps in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, to deny egress to confine and protect patients or residents of the secured facility who are not capable of self-preservation. A secured facility that wishes to deny egress to those patients or residents may use delayed-egress

doors and electronically coded doors to deny egress, on the condition that those doors are installed and used in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code. A secured facility also may install controlled-egress locks, in compliance with rules the board of building standards adopts under division (A) section 3781.10 of the Revised Code and in compliance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, in areas of the secured facility where patients or residents who have physical or mental conditions that would endanger the patients or residents, the staff attending the patients or residents, or the general public if those patients or residents are not restricted in their freedom of movement. A secured facility that uses delayed-egress doors and electronically coded doors, controlled-egress locks, or both, shall do both of the following:

(1) Provide continuous, twenty-four-hour custodial care to the patients or residents of the facility;

(2) Establish a system to evacuate patients or residents in the event of fire or other emergency.

Sec. 3783.05. The board of building standards, in accordance with Chapters 119., 3781., and 3791. of the Revised Code, shall adopt, amend, or repeal such rules as may be reasonably necessary to administer this chapter. All fees collected by the board pursuant to this chapter shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 3791.02. No owner, or person having the control as an officer or member of a board or committee or otherwise of any

opera house, hall, theater, church, schoolhouse, college, academy, seminary, infirmary, sanitarium, children's home, hospital, medical institute, asylum, memorial building, armory, assembly hall, or other building for the assemblage or betterment of people shall fail to obey any order of the state fire marshal, boards of health of city and general health districts, the building inspector or commissioner in cities having a building inspection department, or the superintendent of ~~labor~~ industrial compliance in the department of commerce under Chapters 3781. and 3791. of the Revised Code or rules or regulations adopted pursuant thereto.

Whoever violates this section shall be fined not more than one thousand dollars.

Sec. 3791.04. (A)(1) Before beginning the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code applies, including all industrialized units, the owner of that building, in addition to any other submission required by law, shall submit plans or drawings, specifications, and data prepared for the construction, erection, equipment, alteration, or addition that indicate the portions that have been approved pursuant to section 3781.12 of the Revised Code and for which no further approval is required, to the municipal, township, or county building department having jurisdiction unless one of the following applies:

(a) If no municipal, township, or county building department certified for nonresidential buildings pursuant to division (E) of section 3781.10 of the Revised Code has jurisdiction, the owner shall make the submissions described in division (A)(1) of this section to the superintendent of ~~labor~~ industrial compliance.

(b) If no certified municipal, township, or county building department certified for residential buildings pursuant to division (E) of section 3781.10 of the Revised Code has

jurisdiction, the owner is not required to make the submissions described in division (A)(1) of this section.

(2)(a) The seal of an architect registered under Chapter 4703. of the Revised Code or an engineer registered under Chapter 4733. of the Revised Code is required for any plans, drawings, specifications, or data submitted for approval, unless the plans, drawings, specifications, or data are permitted to be prepared by persons other than registered architects pursuant to division (C) or (D) of section 4703.18 of the Revised Code, or by persons other than registered engineers pursuant to division (C) or (D) of section 4733.18 of the Revised Code.

(b) No seal is required for any plans, drawings, specifications, or data submitted for approval for any residential buildings, as defined in section 3781.06 of the Revised Code, or erected as industrialized one-, two-, or three-family units or structures within the meaning of "industrialized unit" as defined in section 3781.06 of the Revised Code.

(c) No seal is required for approval of the installation of replacement equipment or systems that are similar in type or capacity to the equipment or systems being replaced. No seal is required for approval for any new construction, improvement, alteration, repair, painting, decorating, or other modification of any buildings or structures subject to sections 3781.06 to 3781.18 and 3791.04 of the Revised Code if the proposed work does not involve technical design analysis, as defined by rule adopted by the board of building standards.

(B) No owner shall proceed with the construction, erection, alteration, or equipment of any building until the plans or drawings, specifications, and data have been approved as this section requires, or the industrialized unit inspected at the point of origin. No plans or specifications shall be approved or inspection approval given unless the building represented would,

if constructed, repaired, erected, or equipped, comply with Chapters 3781. and 3791. of the Revised Code and any rule made under those chapters.

(C) The approval of plans or drawings and specifications or data pursuant to this section is invalid if construction, erection, alteration, or other work upon the building has not commenced within twelve months of the approval of the plans or drawings and specifications. One extension shall be granted for an additional twelve-month period if the owner requests at least ten days in advance of the expiration of the permit and upon payment of a fee not to exceed one hundred dollars. If in the course of construction, work is delayed or suspended for more than six months, the approval of plans or drawings and specifications or data is invalid. Two extensions shall be granted for six months each if the owner requests at least ten days in advance of the expiration of the permit and upon payment of a fee for each extension of not more than one hundred dollars. Before any work may continue on the construction, erection, alteration, or equipment of any building for which the approval is invalid, the owner of the building shall resubmit the plans or drawings and specifications for approval pursuant to this section.

(D) Subject to section 3791.042 of the Revised Code, the board of building standards or the legislative authority of a municipal corporation, township, or county, by rule, may regulate the requirements for the submission of plans and specifications to the respective enforcing departments and for processing by those departments. The board of building standards or the legislative authority of a municipal corporation, township, or county may adopt rules to provide for the approval, subject to section 3791.042 of the Revised Code, by the department having jurisdiction of the plans for construction of a foundation or any other part of a building or structure before the complete plans

and specifications for the entire building or structure are submitted. When any plans are approved by the department having jurisdiction, the structure and every particular represented by and disclosed in those plans shall, in the absence of fraud or a serious safety or sanitation hazard, be conclusively presumed to comply with Chapters 3781. and 3791. of the Revised Code and any rule issued pursuant to those chapters, if constructed, altered, or repaired in accordance with those plans and any rule in effect at the time of approval.

(E) The approval of plans and specifications, including inspection of industrialized units, under this section is a "license" and the failure to approve plans or specifications as submitted or to inspect the unit at the point of origin within thirty days after the plans or specifications are filed or the request to inspect the industrialized unit is made, the disapproval of plans and specifications, or the refusal to approve an industrialized unit following inspection at the point of origin is "an adjudication order denying the issuance of a license" requiring an "adjudication hearing" as provided by sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the Revised Code. An adjudication order denying the issuance of a license shall specify the reasons for that denial.

(F) The board of building standards shall not require the submission of site preparation plans or plot plans to the division of ~~labor~~ industrial compliance when industrialized units are used exclusively as one-, two-, or three-family dwellings.

(G) Notwithstanding any procedures the board establishes, if the agency having jurisdiction objects to any portion of the plans or specifications, the owner or the owner's representative may request the agency to issue conditional approval to proceed with construction up to the point of the objection. Approval shall be issued only when the objection results from conflicting

interpretations of the rules of the board of building standards rather than the application of specific technical requirements of the rules. Approval shall not be issued where the correction of the objection would cause extensive changes in the building design or construction. The giving of conditional approval is a "conditional license" to proceed with construction up to the point where the construction or materials objected to by the agency are to be incorporated into the building. No construction shall proceed beyond that point without the prior approval of the agency or another agency that conducts an adjudication hearing relative to the objection. The agency having jurisdiction shall specify its objections to the plans or specifications, which is an "adjudication order denying the issuance of a license" and may be appealed pursuant to sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the Revised Code.

(H) A certified municipal, township, or county building department having jurisdiction, or the superintendent, as appropriate, shall review any plans, drawings, specifications, or data described in this section that are submitted to it or to the superintendent.

(I) No owner or persons having control as an officer, or as a member of a board or committee, or otherwise, of a building to which section 3781.06 of the Revised Code is applicable, and no architect, designer, engineer, builder, contractor, subcontractor, or any officer or employee of a municipal, township, or county building department shall violate this section.

(J) Whoever violates this section shall be fined not more than five hundred dollars.

Sec. 3791.05. No owner, lessee, agent, factor, architect, or contractor engaged in and having supervision or charge of the

building, erection, or construction of a block, building, or structure, shall neglect or refuse to place or have placed upon the joists of each story thereof, as soon as joists are in position, counter floors of such quality and strength as to render perfectly safe the going to and from thereon of all mechanics, laborers, and other persons engaged upon the work of construction or supervision, or in placing materials for such construction.

Whoever violates this section shall be fined not less than twenty-five nor more than two hundred dollars.

Each day that such person neglects or refuses to have such counter floors so placed, after notice is given by a building inspector, a chief inspector, or deputy inspector of the city building inspection department in cities where such department is organized, or by the superintendent of ~~labor~~ industrial compliance of the state, in cities where such departments are not organized, or from a person whose life or personal safety may be endangered by such neglect or refusal, is a separate offense.

Sec. 3791.07. (A) The board of building standards may establish such reasonable inspection fee schedules as it determines necessary or desirable relating to the inspection of all plans and specifications submitted for approval to the division of ~~labor~~ industrial compliance, and all industrialized units inspected at the point of origin and at the construction site of the building. The inspection fee schedule established shall bear some reasonable relationship to the cost of administering and enforcing the provisions of Chapters 3781. and 3791. of the Revised Code.

(B) In addition to the fee assessed in division (A) of this section, the board shall assess a fee of not more than five dollars for each application for acceptance and approval of plans and specifications and for making inspections pursuant to section

3791.04 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent of ~~labor~~ industrial compliance shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

(C) Any person who fails to pay an inspection fee required for any inspection conducted by the department of commerce pursuant to Chapters 3781. and 3791. of the Revised Code, except for fees charged for the inspection of plans and specifications, within forty-five days after the inspection is conducted, shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

(D) The board shall pay the fees assessed under this section into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 3791.11. (A) As used in this section and sections 3791.12 and 3791.13 of the Revised Code:

(1) "Service station" means any facility designed and constructed primarily for use in the retail sale of gasoline, other petroleum products, and related accessories; except that "service station" does not include any such facility that has been converted for use for another bona fide business purpose, on and after the date of commencement of such other use.

(2) "Abandoned service station" means any service station that has not been used for the retail sale of gasoline, other petroleum products, and related accessories for a continuous period of six months, whenever failure to reasonably secure station buildings from ready access by unauthorized persons and to reasonably maintain the station's premises has resulted in

conditions that endanger the public health, welfare, safety, or morals; provided, that such conditions include, but are not limited to, the presence of defective or deteriorated electrical wiring, heating apparatus, and gas connections, or of unprotected gasoline storage tanks, piping, and valves, or any combination of the foregoing; and provided further that the casual and intermittent use of a service station for the retail sale of any item described in division (A)(1) of this section during such six-month period shall not be held to prevent the station from being determined an abandoned service station if it meets the other qualifications of this division.

(B) No person shall construct, renew operation of, or continue operation of a service station unless, prior to the commencement of construction or renewed operation and during the period of continued operation, a valid bond is on file as provided in division (C) ~~or (D)~~ of this section. The bond shall be obtained by the owner of the property if ~~he~~ the owner is also the owner of the service station. If the owner of the property is not the owner of the service station, then the bond shall be obtained by the lessee of the property; except that such lessee shall be other than any person who leases and operates the service station pursuant to a contract with a supplier of gasoline and petroleum products. The bond shall identify and list the name and address of the property owner and any lessee other than a person who leases and operates the service station pursuant to a contract with a supplier of gasoline and petroleum products.

(C) The bond required by division (B) of this section shall be filed annually with the executive authority of the municipal corporation in which the service station is, or is to be, located, or with the clerk of the board of county commissioners if the service station is not, or is not to be, located within a municipal corporation. The bond shall either be a cash bond or

have sufficient sureties approved by the executive authority or clerk with whom it is filed. The bond shall be for a term of one year and shall be renewed annually. The bond shall be in the amount of three thousand dollars for each service station to provide for the repair or removal of the service station and its appurtenances and restoration of the property. The bond shall be conditioned upon the repair or removal of the service station and restoration of the property if the service station is determined to be an abandoned service station as provided in section 3791.12 of the Revised Code. If the service station is determined to be an abandoned service station, and division (D) or (F) of section 3791.12 of the Revised Code applies, the bond shall be forfeited and the proceeds applied to the costs of repair or removal and restoration as provided in section 3791.13 of the Revised Code. If the amount of the bond exceeds the costs of repair or removal and restoration, the excess shall be returned to the depositor.

~~(D) Whenever a property owner or lessee, other than a person leasing and operating a service station pursuant to a contract with a supplier of gasoline and other petroleum products, owns, leases, or is constructing two or more service stations in this state, such owner or lessee may deposit with the treasurer of state, in lieu of the bond required by division (C) of this section, money or a surety bond approved by the treasurer in the amount of one hundred fifty thousand dollars, or bonds of the United States, this state, or of a political subdivision of this state, having a market value, as determined by the treasurer, of one hundred fifty thousand dollars. The bond or deposit shall cover all service stations owned in the state, being constructed, leased, or operated by the depositor and shall be conditioned upon the repair or removal of any such station and its appurtenances and restoration of the property, if the station is determined to be an abandoned service station as provided in section 3791.12 of the Revised Code. If any such service station is determined to be~~

~~an abandoned service station, and division (D) or (F) of section 3791.12 of the Revised Code applies, the portion of the bond or deposit required to pay the costs of repair or removal and restoration shall be forfeited and paid to the executive authority of the municipal corporation or to the board of county commissioners of the county, upon request therefor. If the surety refuses to pay the costs of repair or removal and restoration to the treasurer, the treasurer shall forthwith file an action on the bond in the amount certified by the executive authority or board as the costs of repair or removal and restoration, and shall pay to the executive authority or board the proceeds of any judgment. A bond or deposit shall remain valid as long as it is sufficient to cover one hundred thousand dollars of liability. If the bond or deposit is reduced to a lesser amount, it shall be invalid unless sufficient additional bond or deposit is provided to restore the amount of liability covered to one hundred fifty thousand dollars.~~

Sec. 3791.12. (A) The executive authority of each municipal corporation and the board of county commissioners of each county shall designate a suitable person to make inspections, within their respective territorial jurisdictions, of any service stations that are, or appear to be, no longer in use for the purposes described in division (A)(1) of section 3791.11 of the Revised Code, or for any other bona fide business purpose. Inspections of service stations under this section shall be made at the order of the executive authority or board, or upon the complaint of any person claiming to be adversely affected by the condition of a service station. Any inspector designated under this section shall have the right to enter upon and inspect any service station that is, or appears to be, no longer in use as described in this section. No inspector, while in the lawful pursuit of ~~his~~ official duties for such purpose, shall be subject to arrest for trespass while so engaged or for such cause

thereafter.

(B) Whenever an inspector, upon inspecting a service station as provided in this section, has reasonable cause to believe that it qualifies as an abandoned service station, ~~he~~ the inspector shall prepare a written report of the condition of the station's buildings and premises. The report shall be filed immediately with the executive authority or board. Upon receipt of the report, the executive authority or board shall fix a place and time, not less than thirty days nor more than sixty days after receipt of the report, for a hearing to determine whether the service station is an abandoned service station. The executive authority or board shall send written notice of the place and date of the hearing, together with a copy of the inspector's report and information that the service station may be ordered repaired or removed if determined to be abandoned, to all persons listed in the bond filed under division (C) ~~or (D)~~ of section 3791.11 of the Revised Code, and to all persons listed in the records of the county recorder or county clerk of courts as holding a lien on the affected property. Such notice shall be sent by certified mail to the address shown on such records.

(C) In hearing the matter and deciding the issue, the executive authority or board shall consider the testimony of any persons appearing pursuant to the notice~~,~~ or their authorized representatives, the testimony of any witnesses appearing on behalf of such persons, the inspector's report or testimony, or both, and any other evidence pertinent to the matter. If the executive authority or board thereupon determines that the service station is an abandoned service station in such condition as to constitute a danger to the public health, welfare, safety, or morals, it shall order the satisfactory repair, or removal, of the service station and its appurtenances, and restoration of the property, within such period of time, not less than thirty days,

as the executive authority or board thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required to be notified by division (B) of this section in the same manner as provided in that division.

(D) If an abandoned service station is not satisfactorily repaired or removed within the period of time provided in an order made under division (C) of this section, the municipal corporation or county may enter the land and complete the repair, if repair was ordered, or remove the service station and its appurtenances, if removal was ordered, and restore the property.

(E) Any person aggrieved by an order of an executive authority or board made under division (C) of this section, may appeal as provided in Chapter 2506. of the Revised Code within thirty days of the mailing of notice of the order.

(F) In the event that no persons notified as provided in division (B) of this section, or their authorized representatives, appear at the hearing, respond to an order of the executive authority or board, or appeal within thirty days of the mailing of notice of the order as provided in division (E) of this section, the municipal corporation or county may proceed as provided in division (D) of this section.

Sec. 3793.04. The department of alcohol and drug addiction services shall develop, administer, and revise as necessary a comprehensive statewide alcohol and drug addiction services plan for the implementation of this chapter. The plan shall emphasize abstinence from the use of alcohol and drugs of abuse as the primary goal of alcohol and drug addiction services. The council on alcohol ~~and,~~ drug, and gambling addiction services shall advise the department in the development and implementation of the plan.

The plan shall provide for the allocation and distribution of funds appropriated to the department by the general assembly for

services furnished by alcohol and drug addiction programs under contract with boards of alcohol, drug addiction, and mental health services. The department shall exclude from the allocation and distribution any funds that are transferred to the department of job and family services to pay the nonfederal share of alcohol and drug addiction services covered by the medicaid program.

The plan shall specify the methodology that the department will use for determining how the funds will be allocated and distributed. A portion of the funds shall be allocated on the basis of the ratio of the population of each alcohol, drug addiction, and mental health service district to the total population of the state as determined from the most recent federal census or the most recent official estimate made by the United States census bureau.

The plan shall ensure that alcohol and drug addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to, African Americans, Hispanics, native Americans, Asians, juvenile and adult offenders, women, veterans, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services.

To aid in formulating the plan and in evaluating the effectiveness and results of alcohol and drug addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by alcohol and drug addiction programs for inclusion in the system. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for

purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of funds allocated and distributed under this section and for the boards' development of plans for services required by sections 340.033 and 3793.05 of the Revised Code.

In any fiscal year, the department shall spend, or allocate to boards, for methadone maintenance programs or any similar programs not more than eight per cent of the total amount appropriated to the department for the fiscal year.

Sec. 3793.041. The department of alcohol and drug addiction services shall develop, administer, and revise as necessary a comprehensive statewide gambling addiction services plan. The council on alcohol, drug, and gambling addiction services shall advise the department in the development and implementation of the plan.

The plan shall provide for allocation and distribution of funds from the problem casino gambling and addictions fund described in Section 6(C)(3)(g) of Article XV, Ohio Constitution, and any funding to be distributed by the department for problem gambling.

The plan shall specify the methodology that the department will use for determining how the funds will be allocated and distributed. A portion of the funds shall be allocated on the basis of the ratio of the population of each alcohol, drug addiction, and mental health service district to the total population of the state as determined from the most recent federal census or the most recent official estimate made by the United States census bureau.

The plan shall ensure that gambling addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to, African Americans, Hispanics, native Americans, Asians, juvenile and adult offenders, women, veterans, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services.

To aid in formulating the plan and in evaluating the effectiveness and results of gambling addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by gambling addiction programs for inclusion in the system. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of funds allocated and distributed under this section.

Sec. 3793.09. (A) There is hereby created the council on alcohol ~~and~~, drug, and gambling addiction services which shall consist of the public officials specified in division (B) of this section, or their designees, and ~~thirteen~~ fourteen members appointed by the governor with the advice and consent of the senate. The members appointed by the governor shall be representatives of the following: boards of alcohol, drug

addiction, and mental health services; the criminal and juvenile justice systems; ~~and~~ alcohol and drug addiction programs; and gambling addiction programs. At least four of the appointed members shall be persons who have received or are receiving alcohol or drug addiction services or are parents or other relatives of such persons; of these at least two shall be women and at least one shall be a member of a minority ~~group.~~

~~The governor shall make initial appointments to the council not later than thirty days after October 10, 1989. Of the initial appointments, six shall be for terms ending July 31, 1991, and seven shall be for terms ending July 31, 1992. Thereafter, terms~~ group. At least one appointed member shall be an individual who has received or is receiving gambling addiction services.

Terms of office shall be two years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of the term. A member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(B) The directors of health, public safety, mental health, rehabilitation and correction, and youth services; the superintendents of public instruction and liquor control; the attorney general; the adjutant general; ~~and~~ the executive director of the division of criminal justice services in the department of public safety; the executive director of the casino control commission; the executive director of the lottery commission; and

the executive director of the state racing commission shall be voting members of the council, except that any of these officials may designate an individual to serve in the official's place as a voting member of the council. The director of alcohol and drug addiction services shall serve as a nonvoting member of the council.

(C) The governor shall annually appoint a chairperson from among the members of the council. The council shall meet quarterly and at other times the chairperson considers necessary. In addition to other duties specified in this chapter, the council shall review the development of the comprehensive statewide plan for alcohol and drug addiction services, the comprehensive statewide plan for gambling addiction services, revisions of ~~the plan~~ those plans, and other actions taken to implement the purposes of this chapter by the department of alcohol and drug addiction services and shall act as an advisory council to the director of alcohol and drug addiction services.

(D) Members of the council shall serve without compensation, but shall be paid actual and necessary expenses incurred in the performance of their duties.

Sec. 3798.01. As used in this chapter:

(A) "Approved health information exchange" means a health information exchange that has been approved or reapproved by the director of job and family services pursuant to the approval or reapproval process, as applicable, the director establishes in rules adopted under division (A) of section 3798.15 of the Revised Code or that has been certified by the office of the national coordinator for health information technology in the United States department of health and human services.

(B) "Covered entity," "disclosure," "health care provider," "health information," "individually identifiable health

information," "protected health information," and "use" have the same meanings as in 45 C.F.R. 160.103.

(C) "Designated record set" has the same meaning as in 45 C.F.R. 164.501.

(D) "Direct exchange" means the activity of electronic transmission of health information through a direct connection between the electronic record systems of health care providers without the use of a health information exchange.

(E) "Health care component" and "hybrid entity" have the same meanings as in 45 C.F.R. 164.103.

(F) "Health information exchange" means any person or governmental entity that provides in this state a technical infrastructure to connect computer systems or other electronic devices used by covered entities to facilitate the secure transmission of health information. "Health information exchange" excludes health care providers engaged in direct exchange, including direct exchange through the use of a health information service provider.

(G) "HIPAA privacy rule" means the standards for privacy of individually identifiable health information in 45 C.F.R. part 160 and in 45 C.F.R. part 164, subparts A and E.

(H) "Interoperability" means the capacity of two or more information systems to exchange information in an accurate, effective, secure, and consistent manner.

(I) "Minor" means an unemancipated person under eighteen years of age or a mentally or physically disabled person under twenty-one years of age who meets criteria specified in rules adopted by the director of job and family services under section 3798.13 of the Revised Code.

(J) "More stringent" has the same meaning as in 45 C.F.R.

160.202.

(K) "Office of health transformation" means the office of health transformation created by executive order 2011-02K or a successor governmental entity responsible for health system oversight in this state.

(L) "Personal representative" means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or emancipated minor, or the parent, legal guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor. "Personal representative" does not include the parent or legal guardian of, or another person acting in loco parentis to, a minor who consents to the minor's own receipt of health care or a minor who makes medical decisions on the minor's own behalf pursuant to law, court approval, or because the minor's parent, legal guardian, or other person acting in loco parentis has assented to an agreement of confidentiality between the provider and the minor.

(M) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

(N) "State agency" means any one or more of the following:

(1) The department of aging;

(2) The department of alcohol and drug addiction services;

(3) The department of developmental disabilities;

(4) The department of education;

(5) The department of health;

(6) The department of insurance;

(7) The department of job and family services;

(8) The department of mental health;

(9) The department of rehabilitation and correction;

(10) The department of youth services;

(11) The bureau of workers' compensation;

(12) The rehabilitation services commission;

(13) The office of the attorney general;

(14) A health care licensing board created under Title XLVII of the Revised Code that possesses individually identifiable health information.

Sec. 3798.02. It is the intent of the general assembly in enacting this chapter to make the laws of this state governing the use and disclosure of protected health information by covered entities consistent with, but generally not more stringent than, the HIPAA privacy rule for the purpose of eliminating barriers to the adoption and use of electronic health records and health information exchanges. Therefore, it is also the general assembly's intent in enacting this chapter to supersede any judicial or administrative ruling issued in this state that is inconsistent with the provisions of this chapter.

Sec. 3798.03. (A) Subject to division (B) of this section, a covered entity shall do both of the following:

(1) If an individual's protected health information is maintained by the covered entity in a designated record set, provide the individual or the individual's personal representative with access to that information in a manner consistent with 45 C.F.R. 164.524;

(2) Implement and maintain appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R.

164.530(c).

(B) If a covered entity is a hybrid entity, this section applies only to the health care component of the covered entity.

Sec. 3798.04. A covered entity shall not do either of the following:

(A) Use or disclose protected health information without an authorization that is valid under 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2, except when the use or disclosure is required or permitted without such authorization by Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations and, if applicable, 42 C.F.R. part 2;

(B) Use or disclose protected health information in a manner that is not consistent with 45 C.F.R. 164.502.

Sec. 3798.06. Except in the circumstances described in division (A) of section 3798.04 of the Revised Code when a covered entity is permitted to disclose protected health information without an authorization that is valid under 45 C.F.R. 164.508, a covered entity shall not disclose protected health information to a health information exchange without an authorization described in division (A) of section 3798.04 of the Revised Code unless all of the following are true:

(A) The disclosure is to an approved health information exchange.

(B) The covered entity is a party to a valid participation agreement with the approved health information exchange that meets the requirements of rules adopted under section 3798.16 of the Revised Code.

(C) The disclosure is consistent with all procedures established by the approved health information exchange.

(D) Prior to the disclosure, the covered entity furnishes to the individual or individual's personal representative a written notice that complies with rules adopted under division (A)(3) of section 3798.16 of the Revised Code.

Sec. 3798.07. (A) In addition to being subject to the general prohibition in section 3798.06 of the Revised Code on disclosure of protected health information to a health information exchange without a valid authorization, a covered entity shall also be subject to the following conditions when it discloses protected health information to a health information exchange:

(1) The covered entity shall restrict disclosure consistent with all applicable federal laws governing the disclosure;

(2) If the protected health information concerns a minor, the covered entity shall restrict disclosure in a manner that complies with laws of this state pertaining to the circumstances under which a minor may consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code unless the minor authorizes the disclosure.

(3) The covered entity shall restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative to restrict disclosure of all of the individual's protected health information.

(4) The covered entity shall restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative concerning specific categories of protected health information to the extent that rules adopted pursuant to section 3798.16 of the Revised Code require the covered entity to comply with such a request.

(B) The conditions in division (A) of this section on a covered entity's disclosure of protected health information to a health information exchange do not render unenforceable or restrict in any manner any of the following:

(1) A provision of the Revised Code that on the effective date of this section requires a person or governmental entity to disclose protected health information to a state agency, political subdivision, or other governmental entity;

(2) The confidential status of proceedings and records within the scope of a peer review committee of a health care entity as described in section 2305.252 of the Revised Code;

(3) The confidential status of quality assurance program activities and quality assurance records as described in section 5122.32 of the Revised Code;

(4) The testimonial privilege established by division (B) of section 2317.02 of the Revised Code;

(5) Any of the following items that govern the confidentiality, privacy, security, or privileged status of protected health information in the possession or custody of an agency; govern the process for obtaining from a patient consent to the provision of health care or consent for participation in medical or other scientific research; govern the process for determining whether an adult has a physical or mental impairment or an adult's capacity to make health care decisions for purposes of Chapter 5126. of the Revised Code; or govern the process for determining whether a minor has been emancipated:

(a) A section of the Revised Code that is not in this chapter;

(b) A rule as defined in section 119.01 of the Revised Code;

(c) An internal management rule as defined in section 111.15

of the Revised Code;

(d) Guidance issued by an agency;

(e) Orders or regulations of a board of health of a city health district made under section 3709.20 of the Revised Code;

(f) Orders or regulations of a board of health of a general health district made under section 3709.21 of the Revised Code;

(g) An ordinance or resolution adopted by a political subdivision;

(h) A professional code of ethics;

(i) When a minor is authorized to consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including the circumstances described in sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code.

Sec. 3798.08. (A) A covered entity that uses or discloses protected health information in a manner that complies with sections 3798.03 and 3798.07 of the Revised Code and is not in violation of section 3798.04 or 3798.06 of the Revised Code is not liable in a civil action and is not subject to criminal prosecution or professional disciplinary action arising out of or relating to the access or disclosure.

(B) An approved health information exchange is not liable in a civil action and not subject to criminal prosecution arising out of or relating to a covered entity's disclosure of protected health information to the approved health information exchange, or use of protected health information accessed from the approved health information exchange, if the disclosure or use complies with sections 3798.03 and 3798.07 of the Revised Code and is not in violation of section 3798.04 or 3798.06 of the Revised Code.

Sec. 3798.10. (A) Not later than six months after the effective date of this section, the director of job and family services, in consultation with the office of health transformation, shall prescribe by rules adopted in accordance with Chapter 119. of the Revised Code a standard authorization form for the use and disclosure of protected health information by covered entities in this state. The form shall meet all requirements specified in 45 C.F.R. 164.508 and, where applicable, 42 C.F.R. part 2.

(B) If a form the director prescribes under division (A) of this section is properly executed by an individual or the individual's personal representative, it shall be accepted by any person or governmental entity in this state as valid authorization for the use or disclosure of the individual's protected health information to the persons or governmental entities specified in the form.

(C) This section does not preclude a person or governmental entity from accepting as valid authorization for the use or disclosure of protected health information a form other than the form prescribed under division (A) of this section if the other form meets all requirements specified in 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2.

Sec. 3798.12. As used in this section, "agency" has the same meaning as in section 111.15 of the Revised Code.

(A) Except as provided in division (B) of this section, any of the following pertaining to the confidentiality, privacy, security, or privileged status of protected health information transacted, maintained in, or accessed through a health information exchange is unenforceable if it conflicts with this chapter:

(1) A section of the Revised Code that is not in this chapter;

(2) A rule as defined in section 119.01 of the Revised Code;

(3) An internal management rule as defined in section 111.15 of the Revised Code;

(4) Guidance issued by an agency;

(5) Orders or regulations of a board of health of a city health district made under section 3709.20 of the Revised Code;

(6) Orders or regulations of a board of health of a general health district made under section 3709.21 of the Revised Code;

(7) An ordinance or resolution adopted by a political subdivision;

(8) A professional code of ethics.

(B) Division (A) of this section does not render unenforceable or restrict in any manner any of the following:

(1) A provision of the Revised Code that on the effective date of this section requires a person or governmental entity to disclose protected health information to a state agency, political subdivision, or other governmental entity;

(2) The confidential status of proceedings and records within the scope of a peer review committee of a health care entity as described in section 2305.252 of the Revised Code;

(3) The confidential status of quality assurance program activities and quality assurance records as described in section 5122.32 of the Revised Code;

(4) The testimonial privilege established by division (B) of section 2317.02 of the Revised Code;

(5) An item described in divisions (A)(1) to (8) of this section that governs any of the following:

(a) The confidentiality, privacy, security, or privileged status of protected health information in the possession or custody of an agency;

(b) The process for obtaining from a patient consent to the provision of health care or consent for participation in medical or other scientific research;

(c) The process for determining whether an adult has a physical or mental impairment or an adult's capacity to make health care decisions for purposes of Chapter 5126. of the Revised Code;

(d) The process for determining whether a minor has been emancipated.

(6) When a minor is authorized to consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including the circumstances described in sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code.

Sec. 3798.13. The director of job and family services shall adopt rules for purposes of specifying the criteria a person who is mentally or physically disabled and who is under twenty-one years of age must meet to be considered a minor for purposes of sections 3798.07 and 3798.12 of the Revised Code.

Sec. 3798.14. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing standards the director must use to approve health information exchanges operating in this state. The rules shall not be adopted until the earlier of sixty days following the adoption of a federal certification process for health information exchanges by the office of the national coordinator for health

information technology in the United States department of health and human services or January 1, 2013. Subject to division (B) of this section, the rules may include standards and procedures to be followed by a health information exchange regarding the following:

(1) Access to and use and disclosure of protected health information maintained by or on an approved health information exchange;

(2) Demonstration of adequate financial resources to sustain continued operations in compliance with the rules adopted under this section;

(3) Participation in outreach activities for individuals and covered entities;

(4) Conduct of operations in a transparent manner to promote consumer confidence;

(5) Implementation of security breach notification procedures.

(B) The rules the director adopts pursuant to division (A) of this section shall be consistent with certification standards for health information exchanges established in federal statutes and regulations, including nationally recognized standards for interoperability.

Sec. 3798.15. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing processes for all of the following:

(1) A health information exchange to obtain approval to operate as an approved health information exchange in this state and, at times specified by the director, obtain reapproval of such

status;

(2) The director to investigate and resolve concerns and complaints submitted to the director regarding an approved health information exchange;

(3) A health information exchange to apply for reconsideration of a decision the director makes under a process established under division (A)(1) or (2) of this section;

(4) Covered entities and approved health information exchanges to enter into participation agreements and enforce the terms of such agreements.

(B) Any decision the director makes in relation to a request for reconsideration made in accordance with rules adopted under division (A)(3) of this section is not subject to appeal under Chapter 119. of the Revised Code.

Sec. 3798.16. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of specifying the content of agreements governing covered entities' participation in approved health information exchanges. At a minimum, the rules shall require the content of such participation agreements to include all of the following:

(1) Procedures for a covered entity to disclose an individual's protected health information to an approved health information exchange;

(2) Procedures for a covered entity to access an individual's protected health information from an approved health information exchange;

(3) Subject to division (B) of this section, a written notice to be provided by a covered entity to an individual or the individual's personal representative prior to the covered entity's

disclosure of the individual's protected health information to an approved health information exchange;

(4) Documentation the covered entity must use to verify that a notice described in division (A)(3) of this section has been provided by the covered entity to an individual or the individual's personal representative prior to the disclosure of the individual's protected health information to an approved health information exchange;

(5) Procedures, which must take into consideration the technical capabilities of software available to health information exchanges, for an individual or the individual's personal representative to submit to the covered entity a written request to place restrictions on the covered entity's disclosure of protected health information to the approved health information exchange;

(6) The standards a covered entity must use to determine whether, and to what extent, to comply with a written request described in division (A)(5) of this section;

(7) The purposes for which a covered entity may access and use protected health information from the approved health information exchange.

(B) With respect to the written notice described in division (A)(3) of this section, the rules may specify that the notice can be incorporated into the covered entity's notice of privacy practices required by 45 C.F.R. 164.520 and shall specify that the notice include the following statements:

(1) The individual's protected health information will be disclosed to the approved health information exchange to facilitate the provision of health care to the individual.

(2) The approved health information exchange maintains appropriate safeguards to protect the privacy and security of

protected health information.

(3) Only authorized individuals may access and use protected health information from the approved health information exchange.

(4) The individual or the individual's personal representative has the right to request in writing that the covered entity do either or both of the following:

(a) Not disclose any of the individual's protected health information to the approved health information exchange;

(b) Not disclose specific categories of the individual's protected health information to the approved health information exchange.

(5) Any restrictions on the disclosure of protected health information an individual requests as described in either division (B)(4)(a) or (b) of this section may result in a health care provider not having access to information that is necessary for the provider to render appropriate care to the individual.

(6) Any restrictions on the disclosure of protected health information an individual requests as described in division (B)(4)(a) of this section must be honored by the covered entity.

(7) Any restrictions on the disclosure of protected health information an individual requests as described in division (B)(4)(b) of this section must be honored if the restriction is consistent with rules adopted under this chapter.

Sec. 3905.36. (A) Every insured association, company, corporation, or other person that enters, directly or indirectly, into any independent procurement or direct placement agreement with any insurance company, association, individual, firm, underwriter, or Lloyd's, not authorized to do business in this state, whereby the insured shall procure, continue, or renew contracts of insurance with such unauthorized insurance company,

association, individual, firm, underwriter, or Lloyd's, for which insurance there is a gross premium, shall file the details of the transaction annually, on or before the thirty-first day of March, and shall at the same time pay to the treasurer of state, or to the superintendent of insurance upon the mutual agreement of the superintendent and the treasurer, a tax of five per cent of such gross premium, after a deduction for return premium, if any, as calculated in the prescribed format or in compliance with any requirements of the compact entered into by the superintendent pursuant to division (D) of section 3905.33 of the Revised Code. An insurer may submit the required details of the transaction and remit the tax payment on behalf of an insured.

All taxes collected under this section shall be paid into the general revenue fund. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer or the superintendent, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

The superintendent of insurance, in the superintendent's sole discretion, may waive the twenty-five per cent penalty and interest charge thereon for a first-time, inadvertent nonpayment of the tax when due if the nonpayment is reported immediately upon discovery and the outstanding tax is thereafter immediately paid to the superintendent.

(B) Each person licensed under section 3905.30 of the Revised Code shall pay to the treasurer of state, or to the superintendent of insurance upon the mutual agreement of the superintendent and

the treasurer, on or before the thirty-first day of March of each year, five per cent of the balance of the gross premiums charged for insurance placed or procured under the license after a deduction for return premiums in the prescribed format or in compliance with any requirements of the compact entered into by the superintendent pursuant to division (D) of section 3905.33 of the Revised Code. The tax shall be collected from the insured by the surplus lines broker who placed or procured the policy of insurance at the time the policy is delivered to the insured. No license issued under section 3905.30 of the Revised Code shall be renewed until payment is made. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer or the superintendent, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

The superintendent, in the superintendent's sole discretion, may waive the twenty-five per cent penalty and interest charge thereon for a first-time, inadvertent nonpayment of the tax when due if the nonpayment is reported immediately upon discovery and the outstanding tax is thereafter immediately paid to the superintendent.

(C) This section does not apply to:

(1) An insured otherwise exempt from the payment of premium or franchise taxes under state or federal law;

(2) Attorneys-at-law acting on behalf of their clients in the adjustment of claims or losses;

(3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following:

(a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent organizations or individual owners and risks of one or more affiliates of the parent organizations or individual owners;

(b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members;

(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds.

(4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code;

(5) Insurance with an initial policy period of more than three years and that is procured to cover known events related to environmental remediation that occurred prior to the effective date of that insurance;

(6) Insurance procured on behalf of an entity that manufactures, packages, and sells, as more than fifty per cent of the entity's business, pharmaceutical products for human use where the production, packaging, and sale of such products are subject to regulation by an agency of the United States;

(7) A political subdivision or any combination or consortium of two or more political subdivisions.

(D) As used in this section:

(1) "Political subdivision" means any county; municipal corporation; township; township police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2151.65 and 2152.41 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code, any public division, district, commission, authority, department, board, officer, or institution of any one or more of those political subdivisions, that is entirely or substantially supported by public tax moneys.

(2) "Municipal corporation" means all municipal corporations, including those that have adopted a charter under Article XVIII, Ohio Constitution.

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and section 4104.99 of the Revised Code:

(A) "Board of building standards" or "board" means the board established by section 3781.07 of the Revised Code.

(B) "Superintendent" means the superintendent of ~~labor~~ industrial compliance created by section 121.04 of the Revised Code.

(C) "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination

thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. "Boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

(D) "Power boiler" means a boiler in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen psig.

(E) "High pressure, high temperature water boiler" means a water heating boiler operating at pressures exceeding one hundred sixty psig or temperatures exceeding two hundred fifty degrees Fahrenheit.

(F) "Low pressure boiler" means a steam boiler operating at pressures not exceeding fifteen psig, or a hot water heating boiler operating at pressures not exceeding one hundred sixty psig or temperatures not exceeding two hundred fifty degrees Fahrenheit.

(G) "Pressure vessel" means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source or any combination thereof.

(H) "Process boiler" means a boiler to which all of the following apply:

(1) The steam in the boiler is either generated or superheated, or both, under pressure or vacuum for use external to itself.

(2) The source of heat for the boiler is in part or in whole from a process other than the boiler itself.

(3) The boiler is part of a continuous processing unit, such

as used in chemical manufacture or petroleum refining, other than a steam-generated process unit.

(I) "Stationary steam engine" means an engine or turbine in which the mechanical force arising from the elasticity and expansion action of steam or from its property of rapid condensation or from a combination of the two is made available as a motive power.

Sec. 4104.02. The board of building standards shall:

(A) Formulate rules for the construction, installation, repair, conservation of energy, and operation of boilers and the construction and repair of pressure vessels and for ascertaining the safe working pressures to be carried on such boilers and pressure vessels and the qualification of inspectors of boilers and pressure vessels;

(B) Prescribe tests, if it is considered necessary, to ascertain the qualities of materials used in the construction of boilers and pressure vessels;

(C) Adopt rules regulating the construction and sizes of safety valves for boilers and pressure vessels of different sizes and pressures, for the construction, use, and location of fusible plugs, appliances for indicating the pressure of steam and level of water in the boiler or pressure vessels, and such other appliances as the board considers necessary to safety in operating boilers;

(D) Establish reasonable fees for the performance of reviews, surveys, or audits of manufacturer's facilities by the division of ~~labor~~ industrial compliance for certification by the American society of mechanical engineers and the national board of boiler and pressure vessel inspectors;

(E) The definitions and rules adopted by the board for the

construction, installation, repair, conservation of energy, and operation of boilers and the construction and repair of pressure vessels and for ascertaining the safe working pressures to be used on such boilers and pressure vessels shall be based upon and follow generally accepted engineering standards, formulae, and practices established and pertaining to boilers and pressure vessel construction, operation, and safety, and the board may, for this purpose, adopt existing published standards as well as amendments thereto subsequently published by the same authority.

When a person desires to manufacture a special type of boiler or pressure vessel, the design of which is not covered by the rules of the board, the person shall submit drawings and specifications of such boiler or pressure vessel to the board for investigation, after which the board may permit its installation.

The provisions of sections 119.03 and 119.11 of the Revised Code in particular, and the applicable provisions of Chapter 119. of the Revised Code in general, shall govern the proceedings of the board of building standards in adopting, amending, or rescinding rules pursuant to this section.

Sec. 4104.06. (A) The inspection of boilers and their appurtenances and pressure vessels shall be made by the inspectors mentioned in sections 4104.07 to 4104.20 of the Revised Code. The superintendent of ~~labor~~ industrial compliance shall administer and enforce such sections and rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers and their appurtenances, and pressure vessels.

(C) Notwithstanding division (B) of this section, the superintendent shall not adopt rules relating to construction, maintenance, or repair of boilers and their appurtenances, or repair of pressure vessels.

(D) The superintendent and each general inspector may enter any premises and any building or room at all reasonable hours to perform an examination or inspection.

Sec. 4104.07. (A) An application for examination as an inspector of boilers and pressure vessels shall be in writing, accompanied by a fee of one hundred fifty dollars, upon a blank to be furnished by the superintendent of ~~labor~~ industrial compliance. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(B) The superintendent shall determine if an applicant meets all the requirements for examination in accordance with rules adopted by the board of building standards under section 4104.02 of the Revised Code. An application shall be rejected which contains any willful falsification, or untruthful statements.

(C) An applicant shall be examined by the superintendent, by a written examination, prescribed by the board, dealing with the construction, installation, operation, maintenance, and repair of boilers and pressure vessels and their appurtenances, and the applicant shall be accepted or rejected on the merits of the applicant's application and examination.

(D) Upon a favorable report by the superintendent of the result of an examination, the superintendent shall immediately issue to the successful applicant a certificate of competency to that effect.

Sec. 4104.08. (A) The director of commerce may appoint from

the holders of certificates of competency provided for in section 4104.07 of the Revised Code, general inspectors of boilers and pressure vessels.

(B) Any company authorized to insure boilers and pressure vessels against explosion in this state may designate from holders of certificates of competency issued by the superintendent of ~~labor~~ industrial compliance, or holders of certificates of competency or commissions issued by other states or nations whose examinations for certificates or commissions have been approved by the board of building standards, persons to inspect and stamp boilers and pressure vessels covered by the company's policies, and the superintendent shall issue to such persons commissions authorizing them to act as special inspectors. Special inspectors shall be compensated by the company designating them.

(C) The director shall establish an annual fee to be charged by the superintendent for each certificate of competency or commission the superintendent issues.

(D) The superintendent shall issue to each general or special inspector a commission to the effect that the holder thereof is authorized to inspect boilers and pressure vessels in this state.

(E) No person shall be authorized to act as a general inspector or a special inspector who is directly or indirectly interested in the manufacture or sale of boilers or pressure vessels.

Sec. 4104.09. The certificate of competency issued under section 4104.07 of the Revised Code or the commission provided for in section 4104.08 of the Revised Code may be revoked by the superintendent of ~~labor~~ industrial compliance for the incompetence or untrustworthiness of the holder thereof, or for willful falsification of any matter or statement contained in the holder's application or in a report of any inspection in accordance with

Chapter 119. of the Revised Code. If a certificate or commission is lost or destroyed, a new certificate or commission shall be issued in its place without another examination.

Sec. 4104.10. All unfired pressure vessels, except unfired pressure vessels exempt under section 4104.04 of the Revised Code, shall be thoroughly inspected during fabrication and upon completion and shall not be operated until a copy of the manufacturers' data report, properly executed and signed by the inspector is filed in the office of the superintendent of ~~labor~~ industrial compliance. All unfired pressure vessels shall conform in every detail with applicable rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

Sec. 4104.101. (A) No person shall install or make major repairs or modifications to any boiler without first registering to do so with the division of ~~labor~~ industrial compliance.

(B) No person shall make any installation or major repair or modification of any boiler without first obtaining a permit to do so from the division. The permit application form shall provide the name and address of the owner, location of the boiler, and type of repair or modification that will be made. The application permit fee shall be one hundred dollars.

(C) The superintendent of ~~labor~~ industrial compliance shall require annual registration of all contractors who install, make major repairs to, or modify any boiler. The board of building standards shall establish a reasonable fee to cover the cost of processing registrations.

Sec. 4104.12. All boilers, except boilers mentioned in section 4104.04 of the Revised Code, shall be inspected when

installed and shall not be operated until an appropriate certificate of operation has been issued by the superintendent of ~~labor~~ industrial compliance. The certificate of operation required by this section shall not be issued for any boiler which has not been thoroughly inspected during construction and upon completion, by either a general or special inspector, and which does not conform in every detail with the rules adopted by the board of building standards and unless, upon completion, such boiler is distinctly stamped under such rules by such inspector.

Sec. 4104.15. (A) All certificates of inspection for boilers, issued prior to October 15, 1965, are valid and effective for the period set forth in such certificates unless sooner withdrawn by the superintendent of ~~labor~~ industrial compliance. The owner or user of any such boiler shall obtain an appropriate certificate of operation for such boiler, and shall not operate such boiler, or permit it to be operated unless a certificate of operation has been obtained in accordance with section 4104.17 of the Revised Code.

(B) If, upon making the internal and external inspection required under sections 4104.11, 4104.12, and 4104.13 of the Revised Code, the inspector finds the boiler to be in safe working order, with the fittings necessary to safety, and properly set up, upon the inspector's report to the superintendent, the superintendent shall issue to the owner or user thereof, or renew, upon application and upon compliance with sections 4104.17 and 4104.18 of the Revised Code, a certificate of operation which shall state the maximum pressure at which the boiler may be operated, as ascertained by the rules of the board of building standards. Such certificates shall also state the name of the owner or user, the location, size, and number of each boiler, and the date of issuance, and shall be so placed as to be easily read in the engine room or boiler room of the plant where the boiler is

located, except that the certificate of operation for a portable boiler shall be kept on the premises and shall be accessible at all times.

(C) If an inspector at any inspection finds that the boiler or pressure vessel is not in safe working condition, or is not provided with the fittings necessary to safety, or if the fittings are improperly arranged, the inspector shall immediately notify the owner or user and person in charge of the boiler and shall report the same to the superintendent who may revoke, suspend, or deny the certificate of operation and not renew the same until the boiler or pressure vessel and its fittings are put in condition to insure safety of operation, and the owner or user shall not operate the boiler or pressure vessel, or permit it to be operated until such certificate has been granted or restored.

(D) If the superintendent or a general boiler inspector finds that a pressure vessel or boiler or a part thereof poses an explosion hazard that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons, the superintendent or the general boiler inspector shall seal the pressure vessel or boiler and order, in writing, the operator or owner of the pressure vessel or boiler to immediately cease the pressure vessel's or boiler's operation. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied, or for a period of seventy-two hours from the time of issuance, whichever occurs first. During the seventy-two-hour period, the superintendent may request that the prosecuting attorney or city attorney of Franklin county or of the county in which the pressure vessel or boiler is located obtain an injunction restraining the operator or owner of the pressure vessel or boiler from continuing its operation after the seventy-two-hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(E) Each boiler which has been inspected shall be assigned a number by the superintendent, which number shall be stamped on a nonferrous metal tag affixed to the boiler or its fittings by seal or otherwise. No person except an inspector shall deface or remove any such number or tag.

(F) If the owner or user of any pressure vessel or boiler disagrees with the inspector as to the necessity for shutting down a pressure vessel or boiler or for making repairs or alterations in it, or taking any other measures for safety that are requested by an inspector, the owner or user may appeal from the decision of the inspector to the superintendent, who may, after such other inspection by a general inspector or special inspector as the superintendent deems necessary, decide the issue.

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, nor an inspection or report by any inspector, shall relieve the owner or user of a pressure vessel or boiler of the duty of using due care in the inspection, operation, and repair of the pressure vessel or boiler or of any liability for damages for failure to inspect, repair, or operate the pressure vessel or boiler safely.

Sec. 4104.16. The owner or user of any boiler required by sections 4104.01 to 4104.20 of the Revised Code, to be inspected, shall immediately notify the superintendent of ~~labor~~ industrial compliance in case a defect affecting the safety of the boiler is discovered.

The owner or user of any stationary boiler required by such sections to be inspected, who moves the same, shall report to the superintendent the new location of the boiler. Such boiler shall be inspected before it is again operated.

Sec. 4104.17. Certificates of operation issued for boilers subject to inspection under Chapter 4104. of the Revised Code

shall be issued and renewed in accordance with and at dates prescribed by rules and regulations adopted by the superintendent of ~~labor~~ industrial compliance.

Sec. 4104.18. (A) The owner or user of a boiler required under section 4104.12 of the Revised Code to be inspected upon installation, and the owner or user of a boiler for which a certificate of inspection has been issued which is replaced with an appropriate certificate of operation, shall pay to the superintendent of ~~labor~~ industrial compliance a fee in the amount of fifty dollars for boilers subject to annual inspections under section 4104.11 of the Revised Code, one hundred dollars for boilers subject to biennial inspection under section 4104.13 of the Revised Code, one hundred fifty dollars for boilers subject to triennial inspection under section 4104.11 of the Revised Code, or two hundred fifty dollars for boilers subject to quinquennial inspection under section 4104.13 of the Revised Code.

(B) The fee for complete inspection during construction by a general inspector on boilers and pressure vessels manufactured within the state shall be thirty-five dollars per hour. Boiler and pressure vessel manufacturers other than those located in the state may secure inspection by a general inspector on work during construction, upon application to the superintendent, and upon payment of a fee of thirty-five dollars per hour, plus the necessary traveling and hotel expenses incurred by the inspector.

(C) The application fee for applicants for steam engineer, high pressure boiler operator, or low pressure boiler operator licenses is seventy-five dollars. The fee for each original or renewal steam engineer, high pressure boiler operator, or low pressure boiler operator license is fifty dollars.

(D) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees

provided in divisions (A), (B), and (C) of this section. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(E) Any person who fails to pay an invoiced renewal fee or an invoiced inspection fee required for any inspection conducted by the division of ~~labor~~ industrial compliance pursuant to this chapter within forty-five days of the invoice date shall pay a late payment fee equal to twenty-five per cent of the invoiced fee.

(F) In addition to the fees assessed in divisions (A) and (B) of this section, the board of building standards shall assess the owner or user a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under division (A) of this section and for each inspection conducted under division (B) of this section. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

Sec. 4104.19. (A) Any person seeking a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator shall file a written application with the superintendent of ~~labor~~ industrial compliance on a form prescribed by the superintendent with the appropriate application fee as set forth in section 4104.18 of the Revised Code. The application shall contain information satisfactory to the superintendent to demonstrate that the applicant meets the requirements of division (B) of this section. The application shall be filed with the superintendent not more than sixty days and not less than thirty days before the license examination is offered.

(B) To qualify to take the examination required to obtain a steam engineer, high pressure boiler operator, or low pressure boiler operator license, a person shall meet both of the following requirements:

(1) Be at least eighteen years of age;

(2) Have one year of experience in the operation of steam engines, high pressure boilers, or low pressure boilers as applicable to the type of license being sought, or a combination of experience and education for the type of license sought as determined to be acceptable by the superintendent.

(C) No applicant shall qualify to take an examination or to renew a license if the applicant has violated this chapter or if the applicant has obtained or renewed a license issued under this chapter by fraud, misrepresentation, or deception.

(D) The superintendent shall issue a license to each applicant who receives a passing score on the examination, as determined by the superintendent, for the license for which the applicant applied.

(E) The superintendent may select and contract with one or more persons to do all of the following relative to the examinations for a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;

(4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for

which the applicant is seeking licensure.

(F) Each license issued under this chapter expires one year after the date of issue. Each person holding a valid, unexpired license may renew the license, without reexamination, by applying to the superintendent not more than ninety days before the expiration of the license, and submitting with the application the renewal fee established in section 4104.18 of the Revised Code. Upon receipt of the renewal information and fee, the superintendent shall issue the licensee a certificate of renewal.

(G) The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license, or may refuse to issue a license under this chapter upon finding that a licensee or an applicant for a license has violated or is violating the requirements of this chapter.

Sec. 4104.21. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the superintendent of ~~labor~~ industrial compliance shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate or license issued pursuant to this chapter.

Sec. 4104.33. There is hereby created the historical boilers licensing board consisting of seven members, three of whom shall be appointed by the governor with the advice and consent of the senate. The governor shall make initial appointments to the board within ninety days after October 24, 2002. Of the initial members appointed by the governor, one shall be for a term ending three years after October 24, 2002, one shall be for a term ending four years after October 24, 2002, and one shall be for a term ending five years after October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the

same month of the year as did the term that it succeeds. Of the three members the governor appoints, one member shall be an employee of the division of boiler inspection in the department of commerce; one member shall be an independent mechanical engineer who is not involved in selling or inspecting historical boilers; and one shall be an active member of an association that represents managers of fairs or festivals.

Two members of the board shall be appointed by the president of the senate and two members of the board shall be appointed by the speaker of the house of representatives. The president and speaker shall make initial appointments to the board within ninety days after October 24, 2002. Of the initial members appointed by the president, one shall be for a term ending four years after October 24, 2002 and one shall be for a term ending five years after October 24, 2002. Of the initial members appointed by the speaker, one shall be for a term ending three years after October 24, 2002 and one shall be for a term ending five years after October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term that it succeeds. Of the four members appointed by the president and speaker, each shall own a historical boiler and also have at least ten years of experience in the operation of historical boilers, and each of these four members shall reside in a different region of the state.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the

member's term until the successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The members of the board, annually, shall elect, by majority vote, a chairperson from among their members. The board shall meet at least once annually and at other times at the call of the chairperson. Board members shall receive their actual and necessary expenses incurred in the discharge of their duties as board members.

The superintendent of ~~labor~~ industrial compliance shall furnish office space, staff, and supplies to the board as the superintendent determines are necessary for the board to carry out its official duties under sections 4104.33 to 4104.37 of the Revised Code.

Sec. 4104.42. (A) The owner of any power piping or process piping system shall ensure that all of the following are performed in compliance with applicable sections of the B31 standards contained in the code for pressure piping, published by the American society of mechanical engineers:

(1) The design, fabrication, assembly, installation, testing, examination, and inspection of power and process piping systems;

(2) Qualification of personnel and qualification of welding and brazing procedures;

(3) The implementation of an inspection program.

(B) The owner of a power piping or process piping system shall do both of the following:

(1) Maintain for five years complete records documenting the design, examination, and testing of the piping system that include all of the following:

(a) The specific edition of the code for pressure piping used in the design;

(b) The design assumptions;

(c) The calculations, piping material specifications, and construction documents for the piping;

(d) The records of piping alterations;

(e) The piping examination and inspection records.

(2) Disclose the types and quantities of flammable, combustible, or hazardous materials proposed to be used in the facility to the building and fire code enforcement authorities who have inspection authority to enable those authorities to determine compliance with the rules the board of building standards adopts pursuant to section 3781.10 of the Revised Code and the rules the state fire marshal adopts pursuant to section 3737.82 of the Revised Code.

(C) No person or state agency shall require that the records described in division (B)(1) of this section be submitted to the division of ~~labor~~ industrial compliance in the department of commerce or to a certified building department for approval.

(D) Nothing in this section limits the application of Chapters 4703. and 4733. of the Revised Code.

Sec. 4104.43. (A)(1) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for building services piping.

(2) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for nonflammable medical gas, medical oxygen, and medical vacuum piping systems.

(B) A municipal, township, or county building department certified under division (E) of section 3781.10 of the Revised Code shall enforce the rules the board adopts pursuant to division

(A)(2) of this section if that building department requests and obtains special certification to enforce those rules.

(C) In a health district where no municipal, township, or county building department is specially certified under division (B) of this section, an employee of the health district shall enforce the rules adopted pursuant to division (A)(2) of this section if both of the following conditions are satisfied:

(1) The health district employee requests and obtains special certification by the board to enforce those rules.

(2) The health district notifies the superintendent of the division of ~~labor~~ industrial compliance in the department of commerce that the health district's specially certified employee shall enforce those rules.

(D) In a jurisdiction where enforcement authority as described in divisions (B) and (C) of this section does not exist, the superintendent of ~~labor~~ industrial compliance shall enforce the rules the board adopts pursuant to division (A)(2) of this section.

Sec. 4104.44. All welding and brazing of metallic piping systems shall be performed in accordance with section IX of the boiler and pressure vessel code, published by the American society of mechanical engineers. The owner shall maintain, at the job site, the certified performance qualification records of all welders and brazers employed at the facility. The owner shall submit copies of all certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping for review to the superintendent of ~~labor~~ industrial compliance in the department of commerce in accordance with rules the superintendent adopts. The submission shall be accompanied by the fee the superintendent establishes.

Sec. 4104.48. (A) No person shall violate sections 4104.41 to 4104.48 of the Revised Code, fail to perform any duty lawfully enjoined in connection with those sections, or fail to comply with any order issued by the superintendent of ~~labor~~ industrial compliance or any judgment or decree issued by any court in connection with the enforcement of sections 4104.41 to 4104.48 of the Revised Code.

(B) Every day during which a person violates sections 4104.41 to 4104.48 of the Revised Code, fails to perform any duty lawfully enjoined in connection with those sections, or fails to comply with any order issued by the superintendent or any judgment or decree issued by any court in connection with the enforcement of sections 4104.41 to 4104.48 of the Revised Code constitutes a separate offense.

Sec. 4105.01. As used in this chapter:

(A) "Elevator" means a hoisting and lowering apparatus equipped with a car, cage, or platform which moves on or between permanent rails or guides and serves two or more fixed landings in a building or structure to which section 3781.06 of the Revised Code applies. "Elevator" includes dumb-waiters other than hand-powered dumb-waiters, escalators, ~~peoplelifts~~ manlifts, moving walks, of the endless belt type, other lifting or lowering apparatus permanently installed on or between rails or guides, and all equipment, machinery, and construction related to any elevator; but does not include construction hoists and other similar temporary lifting or lowering apparatuses, ski lifts, traveling, portable amusement rides or devices that are not affixed to a permanent foundation, or nonportable amusement rides or devices that are affixed to a permanent foundation.

(B) "Passenger elevator" means an elevator that is designed

to carry persons to its contract capacity.

(C) "Freight elevator" means an elevator normally used for carrying freight and on which only the operator and employees in the pursuit of their duties, by the permission of the employer, are allowed to ride.

(D) "Gravity elevator" means an elevator utilizing gravity to move.

(E) "General inspector" means a state inspector examined and hired to inspect elevators and lifting apparatus for that state.

(F) "Special inspector" means an inspector examined and commissioned by the superintendent of ~~labor~~ industrial compliance to inspect elevators and lifting apparatus in the state.

(G) "Inspector" means either a general or special inspector.

Sec. 4105.02. No person may act, either as a general inspector or as a special inspector, of elevators, unless the person holds a certificate of competency from the division of ~~labor~~ industrial compliance.

Application for examination as an inspector of elevators shall be in writing, accompanied by a fee to be established as provided in section 4105.17 of the Revised Code, and upon a blank to be furnished by the division, stating the school education of the applicant, a list of the applicant's employers, the applicant's period of employment, and the position held with each. An applicant shall also submit a letter from one or more of the applicant's previous employers certifying as to the applicant's character and experience.

Applications shall be rejected which contain any willful falsification or untruthful statements. An applicant, if the division considers the applicant's history and experience sufficient, shall be examined by the superintendent of ~~labor~~

industrial compliance by a written examination dealing with the construction, installation, operation, maintenance, and repair of elevators and their appurtenances, and the applicant shall be accepted or rejected on the merits of the applicant's application and examination.

The superintendent shall issue a certificate of competency in the inspection of elevators to any applicant found competent upon examination. A rejected applicant shall be entitled, after the expiration of ninety days and upon payment of an examination fee to be established as provided in section 4105.17 of the Revised Code, to another examination. Should an applicant fail to pass the prescribed examination on second trial, the applicant will not be permitted to be an applicant for another examination for a period of one year after the second examination.

Sec. 4105.03. The superintendent of ~~labor~~ industrial compliance, with the consent of the director of commerce, shall hire an assistant who has at least ten years of experience in the construction, installation, maintenance, and repair of elevators and their appurtenances.

The superintendent, with the consent of the director, and in compliance with Chapter 124. of the Revised Code, may appoint and hire general inspectors of elevators from the holders of certificates of competency.

Sec. 4105.04. From the holders of certificates of competency in the inspection of elevators, any company that is authorized to insure elevators in the state, may designate persons to inspect elevators covered by such company's policies, and the department of public safety of any city and the clerk of any village may designate persons to inspect elevators in such city or village. Such persons shall, upon the payment of a fee to be established as

provided in section 4105.17 of the Revised Code, have issued to them annually by the division of ~~labor~~ industrial compliance, commissions to serve as special inspectors of elevators in the state.

Sec. 4105.05. A commission to serve as a special inspector may be suspended or revoked by the superintendent of ~~labor~~ industrial compliance, for the incompetence or untrustworthiness of the holder thereof, or for the falsification of any matter or statement contained in the holder's application or in a report of any inspection.

Sec. 4105.06. If a certificate or commission issued under sections 4105.02 and 4105.04 of the Revised Code is lost or destroyed a new one shall be issued in its place by the division of ~~labor~~ industrial compliance without another examination, upon the payment of a fee to be established as provided in section 4105.07 of the Revised Code.

Sec. 4105.09. The owner or user of any elevator shall register, with the division of ~~labor~~ industrial compliance, every elevator operated by the owner or user, giving the type, capacity, and description, name of manufacturer, and purpose for which each is used. Such registration shall be made on a form to be furnished by the division.

Sec. 4105.11. The inspection of elevators shall be made by the inspectors authorized in sections 4105.03 and 4105.04 of the Revised Code, under the supervision of the superintendent of ~~labor~~ industrial compliance, and the superintendent shall enforce this chapter and any rules adopted pursuant thereto.

Every inspector shall forward to the superintendent a full and complete report of each inspection made of any elevator and

shall, on the day the inspection is completed, leave a copy of such report with the owner or operator of the elevator, or the owner's or operator's agent or representative. Such report shall indicate the exact condition of the elevator and shall list any and all of the provisions of this chapter and any rules adopted pursuant thereto, with which the elevator does not comply. Before attempting to enforce, by any remedy, civil or criminal, the provisions with which the inspected elevator does not comply, the chief shall issue an adjudication order within the meaning of Chapter 119. of the Revised Code.

The approval of construction plans, or an application of specifications under section 4105.16 of the Revised Code is a license, and the failure to approve such plans or specifications by the chief within sixty days after they are filed is an adjudication order denying the issuance of a license.

Every adjudication order shall specify what appliances, site preparations, additions, repairs, or alterations to any elevators, plans, materials, assemblages, or procedures are necessary for the same to comply with this chapter, or any rules adopted pursuant thereto. Such adjudication order shall be issued pursuant to Chapter 119. of the Revised Code and shall be effective without prior hearing, within thirty days after the receipt of such order, the owner of the elevator specified therein may appeal to the board of building appeals under section 3781.19 of the Revised Code.

Notwithstanding the provisions of Chapter 119. of the Revised Code relating to adjudication hearings, a stenographic or mechanical record of the testimony and other evidence submitted before the board of building appeals shall be taken at the expense of the agency. A party adversely affected by an order issued following such adjudication hearing may appeal to the court of common pleas of the county in which the party is a resident or in

which the elevator affected by such order is located. The court in such case shall not be confined to the record as certified to it by the agency, but any party may produce additional evidence and the court shall hear the matter upon such record and such additional evidence as is introduced by any party. The court shall not affirm the order of the agency unless the preponderance of the evidence before it supports the reasonableness and lawfulness of such order, and of any rules upon which the order of the agency is based in its application to the facts involved in the appeal.

Failure to comply with the requirements of any order issued pursuant to this section or the continued operation of any elevator after it has been sealed pursuant to section 4105.21 of the Revised Code is hereby declared a public nuisance.

Sec. 4105.12. (A) The superintendent of ~~labor~~ industrial compliance shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for the conduct of hearings related to these actions, and for the inspection of elevators.

(B) Notwithstanding division (A) of this section, the superintendent shall not adopt rules relating to construction, maintenance, and repair of elevators.

Sec. 4105.13. Every elevator shall be constructed, equipped, maintained, and operated, with respect to the supporting members, elevator car, shaftways, guides, cables, doors, and gates, safety stops and mechanism, electrical apparatus and wiring, mechanical apparatus, counterweights, and all other appurtenances, in accordance with state laws and rules as are authorized in respect thereto. Where reasonable safety is obtained without complying to the literal requirements of such rules as in cases of practical

difficulty or unnecessary hardship, the literal requirements of such rules shall not be required. The superintendent of ~~labor~~ industrial compliance may permit the installation of vertical wheelchair lifts in public buildings to provide for handicapped accessibility where such lifts do not meet the literal requirements of the rules adopted by the board of building standards pursuant to section 4105.011 of the Revised Code, provided that reasonable safety may be obtained.

Sec. 4105.15. No certificate of operation for any elevator shall be issued by the director of commerce until such elevator has been inspected as required by this chapter. Certificates of operation shall be renewed by the owner or user of the elevator in accordance with rules adopted by the superintendent of ~~labor~~ industrial compliance pursuant to section 4105.12 of the Revised Code.

Sec. 4105.16. Before any new installation of an elevator of permanent nature is erected or before any existing elevator is removed to and installed in a different location, an application of specifications in duplicate shall be submitted to the division of ~~labor~~ industrial compliance giving such information concerning the construction, installation, and operation of said elevator as the division may require on forms to be furnished by the division, together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction of classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the division, containing such information, or approval, except in those municipal corporations which maintain their own elevator inspection departments, in which event such specifications shall be submitted to the elevator department of the municipal

corporation for its approval, and if approved, a permit for the erection or repair of such elevator shall be issued by the municipal corporation. Upon approval of such application and construction plans, the superintendent of ~~labor~~ industrial compliance shall issue a permit for the erection or repair of such elevator. No new elevator shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the division.

The final inspection, before operation, of a permanent, new or repaired elevator shall be made by a general inspector or a special inspector designated by the superintendent.

Sec. 4105.17. (A) The fee for each inspection, or attempted inspection that, due to no fault of a general inspector or the division of ~~labor~~ industrial compliance, is not successfully completed, by a general inspector before the operation of a permanent new elevator prior to the issuance of a certificate of operation, before operation of an elevator being put back into service after a repair or after an adjudication under section 4105.11 of the Revised Code, or as a result of the operation of section 4105.08 of the Revised Code and is an elevator required to be inspected under this chapter is one hundred twenty dollars plus ten dollars for each floor where the elevator stops. The superintendent of ~~labor~~ industrial compliance may assess an additional fee of one hundred twenty dollars plus ten dollars for each floor where an elevator stops for the reinspection of an elevator when a previous attempt to inspect that elevator has been unsuccessful through no fault of a general inspector or the division of ~~labor~~ industrial compliance.

(B) The fee for each inspection, or attempted inspection, that due to no fault of the general inspector or the division, is not successfully completed by a general inspector before operation

of a permanent new escalator or moving walk prior to the issuance of a certificate of operation, before operation of an escalator or moving walk being put back in service after a repair, or as a result of the operation of section 4105.08 of the Revised Code is three hundred dollars. The superintendent may assess an additional fee of one hundred fifty dollars for the reinspection of an escalator or moving walk when a previous attempt to inspect that escalator or moving walk has been unsuccessful through no fault of the general inspector or the division.

(C) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an elevator that is inspected every six months in accordance with division (A) of section 4105.10 of the Revised Code is two hundred twenty dollars plus twelve dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(D) The fee for issuing or renewing a certificate of operation under section 4105.05 of the Revised Code for an elevator that is inspected every twelve months in accordance with division (A) of section 4105.10 of the Revised Code is fifty-five dollars plus ten dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(E) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an escalator or moving walk is three hundred dollars, except where the escalator or moving walk has been inspected by a special inspector in accordance section 4105.07 of the Revised Code.

(F) All other fees to be charged for any examination given or other service performed by the division pursuant to this chapter shall be prescribed by the director of commerce. The fees shall be

reasonably related to the costs of such examination or other service.

(G) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A), (B), (C), (D), and (E) of this section. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(H) Any person who fails to pay an inspection fee required for any inspection conducted by the division pursuant to this chapter within forty-five days after the inspection is conducted shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

(I) In addition to the fees assessed in divisions (A), (B), (C), (D), and (E) of this section, the board of building standards shall assess a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under divisions (A), (B), (C), (D), or (E) of this section and for each permit issued under section 4105.16 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

(J) For purposes of this section:

(1) "Escalator" means a power driven, inclined, continuous stairway used for raising or lowering passengers.

(2) "Moving walk" means a passenger carrying device on which passengers stand or walk, with a passenger carrying surface that is uninterrupted and remains parallel to its direction of motion.

Sec. 4105.191. Any person owning or operating any elevator

subject to this chapter shall file a written report with the superintendent of ~~labor~~ industrial compliance within seventy-two hours after the occurrence of any accident involving such elevator which results in death or bodily injury to any person.

Sec. 4105.20. No person shall violate any law relative to the operation, construction, maintenance, and repair of elevators. All fines collected for violation of this section shall be forwarded to the superintendent of ~~labor~~ industrial compliance, who shall pay them into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 4105.21. The superintendent of ~~labor~~ industrial compliance shall enforce this chapter. If the superintendent or a general inspector of elevators finds that an elevator or a part thereof does not afford reasonable safety as required by section 4105.13 of the Revised Code, the superintendent or the general inspector may seal such elevator and post a notice thereon prohibiting further use of the elevator until the changes or alterations set forth in the notice have been made to the satisfaction of the superintendent or the inspector. The notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure safety of operation, date of such notice, name and signature of the superintendent or inspector issuing the notice.

Sec. 4115.10. (A) No person, firm, corporation, or public authority that constructs a public improvement with its own forces, the total overall project cost of which is fairly estimated to be more than the amounts set forth in division (B) of section 4115.03 of the Revised Code, adjusted biennially by the

director of commerce pursuant to section 4115.034 of the Revised Code, as appropriate, shall violate the wage provisions of sections 4115.03 to 4115.16 of the Revised Code, or suffer, permit, or require any employee to work for less than the rate of wages so fixed, or violate the provisions of section 4115.07 of the Revised Code. Any employee upon any public improvement, except an employee to whom or on behalf of whom restitution is made pursuant to division (C) of section 4115.13 of the Revised Code, who is paid less than the fixed rate of wages applicable thereto may recover from such person, firm, corporation, or public authority that constructs a public improvement with its own forces the difference between the fixed rate of wages and the amount paid to the employee and in addition thereto a sum equal to twenty-five per cent of that difference. The person, firm, corporation, or public authority who fails to pay the rate of wages so fixed also shall pay a penalty to the director of seventy-five per cent of the difference between the fixed rate of wages and the amount paid to the employees on the public improvement. The director shall deposit all moneys received from penalties paid to the director pursuant to this section into the ~~labor~~ industrial compliance operating fund. The director shall use the fund for the enforcement of sections 4115.03 to 4115.16 of the Revised Code. The employee may file suit for recovery within ninety days of the director's determination of a violation of sections 4115.03 to 4115.16 of the Revised Code or is barred from further action under this division. Where the employee prevails in a suit, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(B) Any employee upon any public improvement who is paid less than the prevailing rate of wages applicable thereto may file a complaint in writing with the director upon a form furnished by the director. The complaint shall include documented evidence to demonstrate that the employee was paid less than the prevailing

wage in violation of this chapter. Upon receipt of a properly completed written complaint of any employee paid less than the prevailing rate of wages applicable, the director shall take an assignment of a claim in trust for the assigning employee and bring any legal action necessary to collect the claim. The employer shall pay the costs and reasonable attorney's fees allowed by the court if the employer is found in violation of sections 4115.03 to 4115.16 of the Revised Code.

(C) If after investigation pursuant to section 4115.13 of the Revised Code, the director determines there is a violation of sections 4115.03 to 4115.16 of the Revised Code and a period of sixty days has elapsed from the date of the determination, and if:

(1) No employee has brought suit pursuant to division (A) of this section;

(2) No employee has requested that the director take an assignment of a wage claim pursuant to division (B) of this section.

The director shall bring any legal action necessary to collect any amounts owed to employees and the director. The director shall pay over to the affected employees the amounts collected to which the affected employees are entitled under division (A) of this section. In any action in which the director prevails, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(D) Where persons are employed and their rate of wages has been determined as provided in section 4115.04 of the Revised Code, no person, either for self or any other person, shall request, demand, or receive, either before or after the person is engaged, that the person so engaged pay back, return, donate, contribute, or give any part or all of the person's wages, salary, or thing of value, to any person, upon the statement,

representation, or understanding that failure to comply with such request or demand will prevent the procuring or retaining of employment, and no person shall, directly or indirectly, aid, request, or authorize any other person to violate this section. This division does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

(E) The director shall enforce sections 4115.03 to 4115.16 of the Revised Code.

(F) For the purpose of supplementing existing resources and to assist in enforcing division (E) of this section, the director may contract with a person registered as a public accountant under Chapter 4701. of the Revised Code to conduct an audit of a person, firm, corporation, or public authority.

(G) No contractor or subcontractor shall be responsible for the payment of the penalties provided in division (A) of this section resulting from a violation of sections 4115.03 to 4115.16 of the Revised Code by its subcontractor, provided that the contractor or subcontractor has made a good faith effort to ensure that its subcontractor complied with the requirements of sections 4115.03 to 4115.16 of the Revised Code.

Sec. 4115.101. There is hereby created the prevailing wage custodial fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The director of commerce shall deposit to the fund all money paid by employers to the director that are held in trust for employees to whom prevailing wages are due and owing. The director shall make disbursements from the fund in accordance with this chapter to employees affected by violations of this chapter. If the director determines that any funds in the prevailing wage custodial fund are not returnable to employees as required under this section,

then the director shall certify to the treasurer of state the amount of the funds that are not returnable. Upon the receipt of a certification from the director in accordance with this section, the treasurer of state shall transfer the certified amount of the funds from the prevailing wage custodial fund to the ~~labor~~ industrial compliance operating fund.

Sec. 4121.04. (A) There is hereby created the industrial commission nominating council consisting of five employer representatives, four labor representatives, one representative from the Ohio association for justice, and two members of the public, each of a different political party, who are appointed by the governor. The nominating council shall make recommendations to the governor for the appointment of members to the industrial commission as provided in section 4121.02 of the Revised Code.

(B) In making the appointments, the governor shall select the members representing employees from a list of eight names submitted by the Ohio federation of labor, the member representing the Ohio association for justice from a list of two names submitted by the Ohio association of justice, and the members representing employers from a list of ten names submitted jointly by the Ohio industry organizations. The governor shall appoint at least one member from each of the Ohio industry organizations. Of the list submitted by the Ohio industry organizations, two individuals from each of the Ohio industry organizations shall be included in the list. Terms of office of employer and employee representatives are for four years, each term ending on the same day as the date of their original appointment. The Ohio federation of labor for a vacancy of an employee representative on the council, and the Ohio industry organizations, for a vacancy of an employer representative on the council, shall submit to the governor a list containing two names for appointment and the governor shall appoint an individual from the list to fill the

vacancy provided that the list submitted to fill an industry representative vacancy shall contain the names of individuals who represent the organizations for which a vacancy has occurred. One public member shall represent the interests of small business. Public members shall serve for a term of two years, each term ending on the same day as the date of their original appointment. The governor shall fill a vacancy occurring on the nominating council for a public member in the same manner as for the original appointment but only for the unexpired part of the term. As used in this division, "small business" means any manufacturing establishment employing five hundred or fewer employees or any retail, or other service establishment employing one hundred or fewer employees. The representative from the Ohio association for justice shall serve for a term of four years, each term ending on the twentieth day of October of the appropriate year. The governor shall fill a vacancy occurring on the nominating council for the representative from the Ohio association for justice in the same manner as the original appointment. In the event that an appointment to the council does not conform to this division, such organizations may challenge the appointment pursuant to division (E) of this section, provided that the industry organizations only may challenge the appointment of an industry representative, and further provided that the labor organization only may challenge the appointment of a labor representative.

(C) The nominating council annually shall meet and elect such officers as it determines appropriate and shall meet at such other times as it determines appropriate in order to make recommendations to the governor for the appointment of industrial commission members pursuant to section 4121.02 of the Revised Code. The nominating council may conduct a meeting by interactive video teleconference if provisions are made for public attendance at any location involved in the teleconference. Notwithstanding division (C) of section 121.22 of the Revised Code, all members of

the nominating council, whether attending a meeting of the nominating council in person or by teleconference, are entitled to full and complete voting privileges on all nominating council matters.

(D) Members of the nominating council shall be paid fifty dollars per day and their actual and necessary expenses while engaged in the performance of their duties as members of the nominating council, which the industrial commission shall pay from funds which the industrial commission uses to pay its operating expenses.

(E) An association generally recognized as representing the interests of labor or industry may file, within fifteen days after the governor's appointment of a member, a challenge in the common pleas court of Franklin county asserting that a representative named to represent its interests is not representative of the interests the appointee has been appointed to represent. An appointee whose appointment has been challenged shall not receive any pay nor serve on the nominating council until the court, acting without a jury and following the expedited timetable provided for hearing on restraining orders in Civil Rule 65, makes a determination that the appointee is a true and qualified representative of the group for which the appointee is selected and possesses all of the qualifications.

A challenged appointee may request the attorney general to represent the appointee in an action brought under this division and the attorney general shall provide the appointee with competent representation without charge.

(F) As used in this section, "Ohio industry organizations" means all of the following organizations:

(1) The Ohio self-insurers' association;

(2) The Ohio manufacturers' association;

(3) The Ohio council of retail merchants;

(4) The Ohio chamber of commerce;

(5) The national federation of independent business.

Sec. 4121.123. (A) There is hereby created the workers' compensation board of directors nominating committee consisting of the following:

(1) Three individuals who are members of affiliated employee organizations of the Ohio chapter of the American federation of labor-congress of industrial organizations, who are selected by the Ohio chapter of the American federation of labor-congress of industrial organizations and who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees who are members of an employee organization. Terms of office shall be for one year, with each term ending on the same day of the same month as did the term that it succeeds.

(2) Two individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, one of whom shall be an injured worker with a valid, open, and active workers' compensation claim and at least one of these two representatives also shall represent employees who are not members of an employee organization. The president of the senate and the speaker of the house of representatives each shall appoint annually one of these members. The member who is an injured worker shall serve for a full term even if the member's workers' compensation claim is invalidated, closed, or inactivated during the member's term.

(3) The chief executive officer, or the equivalent of the chief executive officer, of the Ohio chamber of commerce, the Ohio manufacturers' association, the Ohio self-insurers' association,

the Ohio council of retail merchants, the national federation of independent business, and the Ohio farm bureau;

(4) The director of development;

(5) The president of the Ohio township association and the president of the Ohio county commissioners association, or~~, in~~ if any of the following circumstances apply:

(a) In the event of a vacancy in ~~the~~ either presidency, a designee appointed by the governing body authorized to appoint the president. A designee so appointed shall serve on the nominating committee only until the vacancy in the presidency is filled.

(b) In the event that the president of the Ohio township association is unavailable, a designee selected by the president;

(c) In the event that the president of the Ohio county commissioners association is unavailable, a designee selected by the president.

(B) Each member appointed under divisions (A)(1) and (2) of this section shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Such members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any such member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. Such a member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) The nominating committee shall meet at the request of the governor or as the nominating committee determines appropriate in order to make recommendations to the governor for the appointment of members of the bureau of workers' compensation board of

directors under section 4121.12 of the Revised Code.

(D) The director of development shall serve as chairperson of the nominating committee and have no voting rights on matters coming before the nominating committee, except that the director may vote in the event of a tie vote of the nominating committee. Annually, the nominating committee shall select a secretary from among its members. The nominating committee may adopt by-laws governing its proceedings.

(E) Members of the nominating committee shall be paid their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members of the nominating committee.

(F) The nominating committee shall:

(1) Review and evaluate possible appointees for the board. In reviewing and evaluating possible appointees for the board, the nominating committee may accept comments from, cooperate with, and request information from any person.

(2) Make recommendations to the governor for the appointment of members to the board as provided in division (C) of section 4121.12 of the Revised Code.

(G) The nominating committee may make recommendations to the general assembly concerning changes in legislation that will assist the nominating committee in the performance of its duties.

Sec. 4121.30. (A) All rules governing the operating procedure of the bureau of workers' compensation and the industrial commission shall be adopted in accordance with Chapter 119. of the Revised Code, except that determinations of the bureau, district hearing officers, staff hearing officers, and the commission, with respect to an individual employee's claim to participate in the state insurance fund are governed only by Chapter 4123. of the

Revised Code.

The administrator of workers' compensation and commission shall proceed jointly, in accordance with Chapter 119. of the Revised Code, including a joint hearing, to adopt joint rules governing the operating procedures of the bureau and commission. ~~The bureau shall publish the joint rules in a single publication.~~

(B) Upon submission to the bureau or the commission of a petition containing not less than fifteen hundred signatures of adult residents of the state, any individual may propose a rule for adoption, amendment, or rescission by the bureau or the commission. If, upon investigation, the bureau or commission is satisfied that the signatures upon the petition are valid, it shall proceed, in accordance with Chapter 119. of the Revised Code, to consider adoption, amendment, or rescission of the rule.

(C) The administrator shall ~~publish~~ make available electronically all rules adopted by the bureau and the commission ~~in a single publication~~ and shall make available in a timely manner ~~and at cost copies of~~ all rules adopted by the bureau and the commission that are currently in force. ~~For that purpose, the administrator shall maintain a mailing list of all persons requesting copies of the rules.~~

(D) The rule-making authority granted to the administrator under this section does not limit the commission's rule-making authority relative to its overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. The administrator shall not disregard any rule adopted by the commission, provided that the rule is within the commission's rule-making authority.

Sec. 4123.20. The administrator of workers' compensation shall ~~cause to be printed, in proper form for distribution~~ make available electronically to the public, its classifications,

rates, rules, and rules of procedure, and shall furnish the same to any person upon ~~application therefor, and the fact that the classifications, rates, rules, and rules of procedure are printed ready for distribution to all who apply for the same is a sufficient publication of the same as required by this chapter~~ request.

Sec. 4123.35. (A) Except as provided in this section, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code, and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, and a receipt or certificate certifying that payment has been made, along with a written notice as is required in section 4123.54 of the Revised Code, shall be mailed immediately to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium, and the proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.54 of the Revised Code.

The bureau of workers' compensation shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation coverage and shall require every such application to include the employer's federal identification number.

An employer as defined in division (B)(2) of section 4123.01

of the Revised Code who has contracted with a subcontractor is liable for the unpaid premium due from any subcontractor with respect to that part of the payroll of the subcontractor that is for work performed pursuant to the contract with the employer.

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the state insurance fund prior to January 1, 1914, or who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them.

The administrator shall adopt rules to permit employers to make periodic payments of the semiannual premium due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau immediately shall mail a receipt or certificate to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

Every public employer, except public employers that are self-insuring employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of moneys to the public insurance fund.

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical,

surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.

All employers granted status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section.

(1) The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the employer by this section:

(a) The employer employs a minimum of five hundred employees in this state;

(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;

(c) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;

(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(f) The employer's organizational plan for the administration of the workers' compensation law;

(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and

(h) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state.

The administrator may waive the requirements of divisions (B)(1)(a) and (b) of this section and the requirement of division (B)(1)(e) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to waive the requirement of division (B)(1)(e) of this section. Such rules may require additional security of that employer pursuant to division

(E) of section 4123.351 of the Revised Code.

The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, ~~excluding~~ including its hospitals, that meets the requirements of division (B)(2) of this section.

(2) When considering the application of a public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, the administrator shall verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer:

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

(b) For each of the two fiscal years preceding application under this section, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least five per cent of the public employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles.

(c) For the five-year period preceding application under this section, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in rules adopted by the United States securities and exchange commission under 17 C.F.R. 240.15c 2-12.

(d) For the five-year period preceding application under this

section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code.

(f) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria

that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge a board of county commissioners described in division (G) of section 4123.01 of the Revised Code that applies for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. All employers granted such status shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the

privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section:

(1) The board as an employer employs a minimum of five hundred employees in this state;

(2) The board has operated in this state for a minimum of two years;

(3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;

(5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(6) The board's organizational plan for the administration of the workers' compensation law;

(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;

(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that

workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;

(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code.

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited to the surplus fund in division (B) of section 4123.34 of the Revised

Code. The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring

employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim.

(G) The administrator shall adopt rules setting forth procedures for auditing the program of self-insuring employers. The bureau shall conduct the audit upon a random basis or whenever the bureau has grounds for believing that a self-insuring employer is not in full compliance with bureau rules or this chapter.

The administrator shall monitor the programs conducted by self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau.

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.

The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer.

(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual

employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section.

(I) The administrator, notwithstanding other provisions of this chapter, may permit a self-insuring employer to resume payment of premiums to the state insurance fund with appropriate credit modifications to the employer's basic premium rate as such rate is determined pursuant to section 4123.29 of the Revised Code.

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation:

(1) The total assessment against all self-insuring employers as a class for each fund and for the administrative costs for the year that the assessment is being made, as determined by the administrator, divided by the total amount of paid compensation for the previous calendar year attributable to all amenable self-insuring employers;

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the

administrator shall determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation board of directors, in which event, the self-insuring employer shall pay the minimum assessment.

In determining the total amount due for the total assessment against all self-insuring employers as a class for each fund and the administrative assessment, the administrator shall reduce proportionately the total for each fund and assessment by the amount of money in the self-insurance assessment fund as of the date of the computation of the assessment.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for handicapped reimbursement in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in the handicapped reimbursement program and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in the handicapped reimbursement program. The administrator, as the administrator determines appropriate, may determine the total assessment for the handicapped portion of the surplus fund in accordance with sound actuarial principles.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that under division (D) of section 4121.66 of the Revised Code is used for rehabilitation costs in the same manner as set forth in divisions (J)(1) and (2) of this section, except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers who have not made the election to make

payments directly under division (D) of section 4121.66 of the Revised Code and an individual self-insuring employer's proportion of paid compensation only for those self-insuring employers who have not made that election.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

(K) There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, that provide for all of the following:

(1) Establishing the date by which self-insuring employers must submit such information and the amount of the assessments provided for in division (J) of this section for employers who have been granted self-insuring status within the last calendar year;

(2) If an employer fails to pay the assessment when due, the administrator may add a late fee penalty of not more than five hundred dollars to the assessment plus an additional penalty amount as follows:

(a) For an assessment from sixty-one to ninety days past due, the prime interest rate, multiplied by the assessment due;

(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;

(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;

(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;

(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.

(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.

For purposes of division (L)(2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded

by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the

parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

A self-insuring employer may apply to self-insure the employees of either of the following:

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project.

Upon approval of the application, the administrator shall mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project.

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate.

Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and Chapter 4121. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who

contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and Chapter 4121. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and Chapter 4121. of the Revised Code in connection with the construction project for which the certificate is issued.

A self-insuring employer who complies with this division is entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring employer, provided that the self-insuring employer also complies with this section. No employee of the contractors and subcontractors covered under a certificate issued under this division shall be considered the employee of the self-insuring employer listed in that certificate for any purposes other than this chapter and Chapter 4121. of the Revised Code. Nothing in this division gives a self-insuring employer authority to control the means, manner, or method of employment of the employees of the contractors and subcontractors covered under a certificate issued under this division.

The contractors and subcontractors included under a certificate issued under this division are entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the contractor's or subcontractor's

employees who are employed on the construction project which is the subject of the certificate, for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project.

The contractors and subcontractors included under a certificate issued under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996.

As used in this division, "privilege to self-insure a

construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees.

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous

place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised Code;

(6) A municipal power agency as defined in section 3734.058 of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4123.54. (A) Except as otherwise provided in ~~division~~ divisions (I) and (K) of this section, every employee, who is injured or who contracts an occupational disease, and the dependents of each employee who is killed, or dies as the result of an occupational disease contracted in the course of employment, wherever such injury has occurred or occupational disease has been contracted, provided the same were not:

(1) Purposely self-inflicted; or

(2) Caused by the employee being intoxicated or under the influence of a controlled substance not prescribed by a physician where the intoxication or being under the influence of the

controlled substance not prescribed by a physician was the proximate cause of the injury, is entitled to receive, either directly from the employee's self-insuring employer as provided in section 4123.35 of the Revised Code, or from the state insurance fund, the compensation for loss sustained on account of the injury, occupational disease, or death, and the medical, nurse, and hospital services and medicines, and the amount of funeral expenses in case of death, as are provided by this chapter.

(B) For the purpose of this section, provided that an employer has posted written notice to employees that the results of, or the employee's refusal to submit to, any chemical test described under this division may affect the employee's eligibility for compensation and benefits pursuant to this chapter and Chapter 4121. of the Revised Code, there is a rebuttable presumption that an employee is intoxicated or under the influence of a controlled substance not prescribed by the employee's physician and that being intoxicated or under the influence of a controlled substance not prescribed by the employee's physician is the proximate cause of an injury under either of the following conditions:

(1) When any one or more of the following is true:

(a) The employee, through a qualifying chemical test administered within eight hours of an injury, is determined to have an alcohol concentration level equal to or in excess of the levels established in divisions (A)(1)(b) to (i) of section 4511.19 of the Revised Code;

(b) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels in an enzyme multiplied immunoassay technique screening test and above the levels established in

division (B)(1)(c) of this section in a gas chromatography mass spectrometry test:

(i) For amphetamines, one thousand nanograms per milliliter of urine;

(ii) For cannabinoids, fifty nanograms per milliliter of urine;

(iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;

(iv) For opiates, two thousand nanograms per milliliter of urine;

(v) For phencyclidine, twenty-five nanograms per milliliter of urine.

(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test:

(i) For amphetamines, five hundred nanograms per milliliter of urine;

(ii) For cannabinoids, fifteen nanograms per milliliter of urine;

(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;

(iv) For opiates, two thousand nanograms per milliliter of urine;

(v) For phencyclidine, twenty-five nanograms per milliliter of urine.

(d) The employee, through a qualifying chemical test

administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.

(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.

(C)(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:

(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee's physician;

(b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;

(c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the employee's employer.

(2) As used in division (C)(1)(a) of this section, "reasonable cause" means, but is not limited to, evidence that an employee is or was using alcohol or a controlled substance drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the

following:

(a) Observable phenomena, such as direct observation of use, possession, or distribution of alcohol or a controlled substance, or of the physical symptoms of being under the influence of alcohol or a controlled substance, such as but not limited to slurred speech, dilated pupils, odor of alcohol or a controlled substance, changes in affect, or dynamic mood swings;

(b) A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance such as frequent absenteeism, excessive tardiness, or recurrent accidents, that appears to be related to the use of alcohol or a controlled substance, and does not appear to be attributable to other factors;

(c) The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance;

(d) A report of use of alcohol or a controlled substance provided by a reliable and credible source;

(e) Repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol or a controlled substance and that do not appear attributable to other factors.

(D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse.

(E) For the purpose of this section, laboratories certified by the United States department of health and human services or laboratories that meet or exceed the standards of that department for laboratory certification shall be used for processing the test

results of a qualifying chemical test.

(F) The written notice required by division (B) of this section shall be the same size or larger ~~then~~ than the certificate of premium payment notice furnished by the bureau of workers' compensation and shall be posted by the employer in the same location as the certificate of premium payment notice or the certificate of self-insurance.

(G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no compensation or benefits are payable because of the pre-existing condition once that condition has returned to a level that would have existed without the injury.

(H)(1) Whenever, with respect to an employee of an employer who is subject to and has complied with this chapter, there is possibility of conflict with respect to the application of workers' compensation laws because the contract of employment is entered into and all or some portion of the work is or is to be performed in a state or states other than Ohio, the employer and the employee may agree to be bound by the laws of this state or by the laws of some other state in which all or some portion of the work of the employee is to be performed. The agreement shall be in writing and shall be filed with the bureau of workers' compensation within ten days after it is executed and shall remain in force until terminated or modified by agreement of the parties similarly filed. If the agreement is to be bound by the laws of this state and the employer has complied with this chapter, then the employee is entitled to compensation and benefits regardless of where the injury occurs or the disease is contracted and the rights of the employee and the employee's dependents under the laws of this state are the exclusive remedy against the employer

on account of injury, disease, or death in the course of and arising out of the employee's employment. If the agreement is to be bound by the laws of another state and the employer has complied with the laws of that state, the rights of the employee and the employee's dependents under the laws of that state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment without regard to the place where the injury was sustained or the disease contracted. If an employer and an employee enter into an agreement under this division, the fact that the employer and the employee entered into that agreement shall not be construed to change the status of an employee whose continued employment is subject to the will of the employer or the employee, unless the agreement contains a provision that expressly changes that status.

(2) If any employee or the employee's dependents pursue workers' compensation benefits or recover damages from the employer under the laws of another state, the amount awarded or recovered, whether paid or to be paid in future installments, shall be credited on the amount of any award of compensation or benefits made to the employee or the employee's dependents by the bureau. If an employee or the employee's dependents pursue or receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for the same injury, occupational disease, or death for which the employee or the employee's dependents pursued workers' compensation benefits and received a decision on the merits as defined in section 4123.542 of the Revised Code under the laws of another state or recovered damages under the laws of another state, the administrator or any employer, by any lawful means, may collect the amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or a self-insuring employer pursuant to this chapter or Chapter 4121.,

4127., or 4131. of the Revised Code for that award. The administrator or any employer also may collect from the employee or the employee's dependents any costs and attorney's fees the administrator or the employer incurs in collecting that payment and any attorney's fees, penalties, interest, awards, and costs incurred by an employer in contesting or responding to any claim filed by the employee or the employee's dependents for the same injury, occupational disease, or death that was filed after the original claim for which the employee or the employee's dependents received a decision on the merits as described in section 4123.542 of the Revised Code. If the employee's employer pays premiums into the state insurance fund, the administrator shall not charge the amount of compensation or benefits the administrator collects pursuant to this division to the employer's experience. If the administrator collects any costs, penalties, interest, awards, or attorney's fees incurred by a state fund employer, the administrator shall forward the amount of such costs, penalties, interest, awards, and attorney's fees the administrator collects to that employer. If the employee's employer is a self-insuring employer, the self-insuring employer shall deduct the amount of compensation or benefits the self-insuring employer collects pursuant to this division from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(3) Except as otherwise stipulated in division (H)(4) of this section, if an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are

the exclusive remedy against the employer on account of the injury, disease, or death.

(4) Division (H)(3) of this section does not apply to an employee described in that division, or the employee's dependents, unless both of the following apply:

(a) The laws of the other state limit the ability of an employee who is a resident of this state and is covered by this chapter and Chapter 4123. of the Revised Code, or the employee's dependents, to receive compensation or benefits under the other state's workers' compensation law on account of injury, disease, or death incurred by the employee that arises out of or in the course of the employee's employment while temporarily within that state in the same manner as specified in division (H)(3) of this section for an employee who is a resident of a state other than this state, or the employee's dependents;

(b) The laws of the other state limit the liability of the employer of the employee who is a resident of this state and who is described in division (H)(4)(a) of this section for that injury, disease, or death, in the same manner specified in division (H)(3) of this section for the employer of an employee who is a resident of the other state.

(5) An employee, or the dependent of an employee, who elects to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for a claim may not receive compensation and benefits under the workers' compensation laws of any state other than this state for that same claim. For each claim submitted by or on behalf of an employee, the administrator or, if the employee is employed by a self-insuring employer, the self-insuring employer shall request the employee or the employee's dependent to sign an election that affirms the employee's or employee's dependent's acceptance of electing to receive compensation and benefits under this chapter or Chapter

4121., 4127., or 4131. of the Revised Code for that claim that also affirmatively waives and releases the employee's or the employee's dependent's right to file for and receive compensation and benefits under the laws of any state other than this state for that claim. The employee or employee's dependent shall sign the election form within twenty-eight days after the administrator or self-insuring employer submits the request or the administrator or self-insuring employer shall suspend that claim until the administrator or self-insuring employer receives the signed election form.

(I) If an employee who is covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., is injured or contracts an occupational disease or dies as a result of an injury or occupational disease, and if that employee's or that employee's dependents' claim for compensation or benefits for that injury, occupational disease, or death is subject to the jurisdiction of that act, the employee or the employee's dependents are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an employee and the employee's dependents under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy against the employer for that injury, occupational disease, or death.

(J) Compensation or benefits are not payable to a claimant during the period of confinement of the claimant in any state or federal correctional institution, or in any county jail in lieu of incarceration in a state or federal correctional institution, whether in this or any other state for conviction of violation of any state or federal criminal law.

(K) An employer, upon the approval of the administrator, may provide for workers' compensation coverage for the employer's

employees who are professional athletes and coaches by submitting to the administrator proof of coverage under a league policy issued under the laws of another state under either of the following circumstances:

(1) The employer administers the payroll and workers' compensation insurance for a professional sports team subject to a collective bargaining agreement, and the collective bargaining agreement provides for the uniform administration of workers' compensation benefits and compensation for professional athletes.

(2) The employer is a professional sports league, or is a member team of a professional sports league, and all of the following apply:

(a) The professional sports league operates as a single entity, whereby all of the players and coaches of the sports league are employees of the sports league and not of the individual member teams.

(b) The professional sports league at all times maintains workers' compensation insurance that provides coverage for the players and coaches of the sports league.

(c) Each individual member team of the professional sports league, pursuant to the organizational or operating documents of the sports league, is obligated to the sports league to pay to the sports league any workers' compensation claims that are not covered by the workers' compensation insurance maintained by the sports league.

If the administrator approves the employer's proof of coverage submitted under division (K) of this section, a professional athlete or coach who is an employee of the employer and the dependents of the professional athlete or coach are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code.

The rights of such an athlete or coach and the dependents of such an athlete or coach under the laws of the state where the policy was issued are the exclusive remedy against the employer for the athlete or coach if the athlete or coach suffers an injury or contracts an occupational disease in the course of employment, or for the dependents of the athlete or the coach if the athlete or coach is killed as a result of an injury or dies as a result of an occupational disease, regardless of the location where the injury was suffered or the occupational disease was contracted.

Sec. 4123.57. Partial disability compensation shall be paid as follows.

Except as provided in this section, not earlier than twenty-six weeks after the date of termination of the latest period of payments under section 4123.56 of the Revised Code, or not earlier than twenty-six weeks after the date of the injury or contraction of an occupational disease in the absence of payments under section 4123.56 of the Revised Code, the employee may file an application with the bureau of workers' compensation for the determination of the percentage of the employee's permanent partial disability resulting from an injury or occupational disease.

Whenever the application is filed, the bureau shall send a copy of the application to the employee's employer or the employer's representative and shall schedule the employee for a medical examination by the bureau medical section. The bureau shall send a copy of the report of the medical examination to the employee, the employer, and their representatives. Thereafter, the administrator of workers' compensation shall review the employee's claim file and make a tentative order as the evidence before the administrator at the time of the making of the order warrants. If the administrator determines that there is a conflict of evidence,

the administrator shall send the application, along with the claimant's file, to the district hearing officer who shall set the application for a hearing.

The administrator shall notify the employee, the employer, and their representatives, in writing, of the tentative order and of the parties' right to request a hearing. Unless the employee, the employer, or their representative notifies the administrator, in writing, of an objection to the tentative order within twenty days after receipt of the notice thereof, the tentative order shall go into effect and the employee shall receive the compensation provided in the order. In no event shall there be a reconsideration of a tentative order issued under this division.

If the employee, the employer, or their representatives timely notify the administrator of an objection to the tentative order, the matter shall be referred to a district hearing officer who shall set the application for hearing with written notices to all interested persons. Upon referral to a district hearing officer, the employer may obtain a medical examination of the employee, pursuant to rules of the industrial commission.

(A) The district hearing officer, upon the application, shall determine the percentage of the employee's permanent disability, except as is subject to division (B) of this section, based upon that condition of the employee resulting from the injury or occupational disease and causing permanent impairment evidenced by medical or clinical findings reasonably demonstrable. The employee shall receive sixty-six and two-thirds per cent of the employee's average weekly wage, but not more than a maximum of thirty-three and one-third per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, per week regardless of the average weekly wage, for the number of weeks which equals the percentage of two hundred weeks. Except on application for reconsideration, review, or modification, which is

filed within ten days after the date of receipt of the decision of the district hearing officer, in no instance shall the former award be modified unless it is found from medical or clinical findings that the condition of the claimant resulting from the injury has so progressed as to have increased the percentage of permanent partial disability. A staff hearing officer shall hear an application for reconsideration filed and the staff hearing officer's decision is final. An employee may file an application for a subsequent determination of the percentage of the employee's permanent disability. If such an application is filed, the bureau shall send a copy of the application to the employer or the employer's representative. No sooner than sixty days from the date of the mailing of the application to the employer or the employer's representative, the administrator shall review the application. The administrator may require a medical examination or medical review of the employee. The administrator shall issue a tentative order based upon the evidence before the administrator, provided that if the administrator requires a medical examination or medical review, the administrator shall not issue the tentative order until the completion of the examination or review.

The employer may obtain a medical examination of the employee and may submit medical evidence at any stage of the process up to a hearing before the district hearing officer, pursuant to rules of the commission. The administrator shall notify the employee, the employer, and their representatives, in writing, of the nature and amount of any tentative order issued on an application requesting a subsequent determination of the percentage of an employee's permanent disability. An employee, employer, or their representatives may object to the tentative order within twenty days after the receipt of the notice thereof. If no timely objection is made, the tentative order shall go into effect. In no event shall there be a reconsideration of a tentative order issued under this division. If an objection is timely made, the

application for a subsequent determination shall be referred to a district hearing officer who shall set the application for a hearing with written notice to all interested persons. No application for subsequent percentage determinations on the same claim for injury or occupational disease shall be accepted for review by the district hearing officer unless supported by substantial evidence of new and changed circumstances developing since the time of the hearing on the original or last determination.

No award shall be made under this division based upon a percentage of disability which, when taken with all other percentages of permanent disability, exceeds one hundred per cent. If the percentage of the permanent disability of the employee equals or exceeds ninety per cent, compensation for permanent partial disability shall be paid for two hundred weeks.

Compensation payable under this division accrues and is payable to the employee from the date of last payment of compensation, or, in cases where no previous compensation has been paid, from the date of the injury or the date of the diagnosis of the occupational disease.

When an award under this division has been made prior to the death of an employee, all unpaid installments accrued or to accrue under the provisions of the award are payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee, and if there are no children surviving, then to other dependents as the administrator determines.

(B) ~~In~~ For purposes of this division, "payable per week" means the seven consecutive day period in which compensation is paid in installments according to the schedule associated with the applicable injury as set forth in this division.

Compensation paid in weekly installments according to the

schedule described in this division may only be commuted to one or more lump-sum payments pursuant to the procedure set forth in section 4123.64 of the Revised Code.

In cases included in the following schedule the compensation payable per week to the employee is the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code per week and shall ~~continue during the periods provided in~~ be paid in installments according to the following schedule:

For the loss of a first finger, commonly known as a thumb, sixty weeks.

For the loss of a second finger, commonly called index finger, thirty-five weeks.

For the loss of a third finger, thirty weeks.

For the loss of a fourth finger, twenty weeks.

For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.

The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.

The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.

The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.

The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number

of weeks under this division.

For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.

If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use of fingers, the administrator may take that fact into consideration and increase the award of compensation accordingly, but the award made shall not exceed the amount of compensation for loss of a hand.

For the loss of a hand, one hundred seventy-five weeks.

For the loss of an arm, two hundred twenty-five weeks.

For the loss of a great toe, thirty weeks.

For the loss of one of the toes other than the great toe, ten weeks.

The loss of more than two-thirds of any toe is considered equal to the loss of the whole toe.

The loss of less than two-thirds of any toe is considered no loss, except as to the great toe; the loss of the great toe up to the interphalangeal joint is co-equal to the loss of one-half of the great toe; the loss of the great toe beyond the interphalangeal joint is considered equal to the loss of the whole great toe.

For the loss of a foot, one hundred fifty weeks.

For the loss of a leg, two hundred weeks.

For the loss of the sight of an eye, one hundred twenty-five weeks.

For the permanent partial loss of sight of an eye, the portion of one hundred twenty-five weeks as the administrator in each case determines, based upon the percentage of vision actually lost as a result of the injury or occupational disease, but, in no case shall an award of compensation be made for less than twenty-five per cent loss of uncorrected vision. "Loss of uncorrected vision" means the percentage of vision actually lost as the result of the injury or occupational disease.

For the permanent and total loss of hearing of one ear, twenty-five weeks; but in no case shall an award of compensation be made for less than permanent and total loss of hearing of one ear.

For the permanent and total loss of hearing, one hundred twenty-five weeks; but, except pursuant to the next preceding paragraph, in no case shall an award of compensation be made for less than permanent and total loss of hearing.

In case an injury or occupational disease results in serious facial or head disfigurement which either impairs or may in the future impair the opportunities to secure or retain employment, the administrator shall make an award of compensation as it deems proper and equitable, in view of the nature of the disfigurement, and not to exceed the sum of ten thousand dollars. For the purpose of making the award, it is not material whether the employee is gainfully employed in any occupation or trade at the time of the administrator's determination.

When an award under this division has been made prior to the death of an employee all unpaid installments accrued or to accrue under the provisions of the award shall be payable to the surviving spouse, or if there is no surviving spouse, to the

dependent children of the employee and if there are no such children, then to such dependents as the administrator determines.

When an employee has sustained the loss of a member by severance, but no award has been made on account thereof prior to the employee's death, the administrator shall make an award in accordance with this division for the loss which shall be payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee and if there are no such children, then to such dependents as the administrator determines.

(C) Compensation for partial impairment under divisions (A) and (B) of this section is in addition to the compensation paid the employee pursuant to section 4123.56 of the Revised Code. A claimant may receive compensation under divisions (A) and (B) of this section.

In all cases arising under division (B) of this section, if it is determined by any one of the following: (1) the amputee clinic at University hospital, Ohio state university; (2) the rehabilitation services commission; (3) an amputee clinic or prescribing physician approved by the administrator or the administrator's designee, that an injured or disabled employee is in need of an artificial appliance, or in need of a repair thereof, regardless of whether the appliance or its repair will be serviceable in the vocational rehabilitation of the injured employee, and regardless of whether the employee has returned to or can ever again return to any gainful employment, the bureau shall pay the cost of the artificial appliance or its repair out of the surplus created by division (B) of section 4123.34 of the Revised Code.

In those cases where a rehabilitation services commission recommendation that an injured or disabled employee is in need of an artificial appliance would conflict with their state plan, adopted pursuant to the "Rehabilitation Act of 1973," 87 Stat.

355, 29 U.S.C.A. 701, the administrator or the administrator's designee or the bureau may obtain a recommendation from an amputee clinic or prescribing physician that they determine appropriate.

(D) If an employee of a state fund employer makes application for a finding and the administrator finds that the employee has contracted silicosis as defined in division (X), or coal miners' pneumoconiosis as defined in division (Y), or asbestosis as defined in division (AA) of section 4123.68 of the Revised Code, and that a change of such employee's occupation is medically advisable in order to decrease substantially further exposure to silica dust, asbestos, or coal dust and if the employee, after the finding, has changed or shall change the employee's occupation to an occupation in which the exposure to silica dust, asbestos, or coal dust is substantially decreased, the administrator shall allow to the employee an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of one hundred weeks immediately following the expiration of the period of thirty weeks, the employee shall receive sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such employee is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the employee is employed in an occupation in which the exposure to silica dust, asbestos, or coal dust is not substantially less than the exposure in the occupation in which the employee was formerly employed or for any period during which the employee may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from silicosis, asbestosis, or coal miners' pneumoconiosis. An award for change of occupation for a

coal miner who has contracted coal miners' pneumoconiosis may be granted under this division even though the coal miner continues employment with the same employer, so long as the coal miner's employment subsequent to the change is such that the coal miner's exposure to coal dust is substantially decreased and a change of occupation is certified by the claimant as permanent. The administrator may accord to the employee medical and other benefits in accordance with section 4123.66 of the Revised Code.

(E) If a firefighter or police officer makes application for a finding and the administrator finds that the firefighter or police officer has contracted a cardiovascular and pulmonary disease as defined in division (W) of section 4123.68 of the Revised Code, and that a change of the firefighter's or police officer's occupation is medically advisable in order to decrease substantially further exposure to smoke, toxic gases, chemical fumes, and other toxic vapors, and if the firefighter, or police officer, after the finding, has changed or changes occupation to an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is substantially decreased, the administrator shall allow to the firefighter or police officer an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of seventy-five weeks immediately following the expiration of the period of thirty weeks the administrator shall allow the firefighter or police officer sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such firefighter or police officer is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the firefighter or police officer is employed in an occupation in

which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is not substantially less than the exposure in the occupation in which the firefighter or police officer was formerly employed or for any period during which the firefighter or police officer may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from a cardiovascular and pulmonary disease. The administrator may accord to the firefighter or police officer medical and other benefits in accordance with section 4123.66 of the Revised Code.

(F) An order issued under this section is appealable pursuant to section 4123.511 of the Revised Code but is not appealable to court under section 4123.512 of the Revised Code.

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

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

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

(3) By order shall require that the total amount of benefits

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

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

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

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

(1)(a) Within six months after the determination under which the claimant was credited with that waiting period or paid benefits becomes final pursuant to section 4141.28 of the Revised Code, or within three years after the end of the benefit year in which such benefits were claimed, whichever is later, by order cancel such waiting period and require that such benefits be repaid to the director or be withheld from any benefits to which such applicant is or may become entitled before any additional benefits are paid, provided that the repayment or withholding shall not be required where the overpayment is the result of the director's correcting a prior decision due to a typographical or clerical error in the director's prior decision, or an error in an employer's report under division (G) of section 4141.28 of the Revised Code.

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

(2) The director may, by reciprocal agreement with the United

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

(3) If the amounts required to be repaid under division (B) of this section are not recovered within three years from the date the director's order requiring payment became final, initiate no further action to collect such benefits and the amount of any benefits not recovered at that time shall be canceled as uncollectible<u>, provided that the time limit for collection shall be extended by the period of any stay to the collection or by any other time period to which the parties mutually agree</u>.

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

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

The director shall deposit any repayment collected under this section that the director determines to be payment of interest or court costs into the unemployment compensation special administrative fund established pursuant to section 4141.11 of the Revised Code.

Sec. 4163.07. (A)(1) Prior to transporting any high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material or by-product material that meets or exceeds the highway route controlled quantity, within, into, or through the state, the shipper of the material shall notify the executive director of the emergency management agency established under section 5502.22 of the Revised Code of the shipment. The notice shall be in writing and be sent by certified mail and shall include the name of the shipper; the name of the carrier; the type and quantity of the material; the transportation mode of the shipment; the proposed date and time of shipment of the material within, into, or through the state; and the starting point, termination or exit point, scheduled route, and each alternate route, if any, of the shipment. In order to constitute effective notification under division (A)(1) of this section, notification shall be received by the executive director at least four days prior to shipment within, into, or through the state.

(2) The carrier or shipper of any shipment subject to division (A)(1) of this section shall immediately notify the executive director of any change in the date and time of the shipment or in the route of the shipment within, into, or through the state.

(B) Upon receipt of a notice of any shipment of material that is subject to division (A)(1) of this section within, into, or through the state, the executive director of the emergency management agency shall immediately notify the director of public

safety, the director of environmental protection, the director of health, the chairperson of the public utilities commission, and the county emergency management agency and sheriff of each county along the proposed route, or any alternate route, of the shipment.

(C) The executive director of the emergency management agency shall not disclose to any person other than those persons enumerated in division (B) of this section any information pertaining to any shipment of special nuclear material or by-product material prior to the time that the shipment is completed.

(D) This section does not apply to radioactive materials, other than by-products, shipped by or for the United States department of defense and United States department of energy for military or national defense purposes. Nothing in this section requires the disclosure of any defense information or restricted data as defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C. 2011, as amended.

(E) No person shall transport or cause to be transported within, into, or through the state any material that is subject to division (A)(1) of this section without first providing the notice required in that division.

(F) Whoever violates division (E) of this section, in addition to any penalty imposed under section 4163.99 of the Revised Code, is liable for a civil penalty in an amount not to exceed the following, as applicable:

(1) Twenty-five thousand dollars for a motor carrier<u>, as defined in section 4923.01 of the Revised Code</u>;

(2) Forty-five thousand dollars for the first cask designated for transport by rail and thirty thousand dollars for each additional cask designated for transport by rail that is shipped by the same person or entity in the same shipment.

The attorney general, upon the request of the executive director of the emergency management agency, shall bring a civil action to collect the penalty. Fines collected pursuant to this section shall be deposited into the state treasury to the credit of the ~~radioactive waste~~ public utilities transportation safety fund created in section ~~4905.801~~ 4921.21 of the Revised Code.

Sec. 4169.02. (A) For the purposes of regulating the construction, maintenance, mechanical operation, and inspection of passenger tramways that are associated with ski areas and of registering operators of passenger tramways in this state, there is hereby established in the division of ~~labor~~ industrial compliance in the department of commerce a ski tramway board to be appointed by the governor, with the advice and consent of the senate. The board shall consist of three members, one of whom shall be a public member who is an experienced skier and familiar with ski areas in this state, one of whom shall be a ski area operator actively engaged in the business of recreational skiing in this state, and one of whom shall be a professional engineer who is knowledgeable in the design or operation of passenger tramways.

Of the initial appointments, one member shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. The member appointed to the term beginning on July 1, 1996, shall be appointed to a term ending on June 30, 1997; the member appointed to a term beginning on July 1, 1997, shall be appointed to a term ending on June 30, 1999; and the member appointed to a term beginning on July 1, 1998, shall be appointed to a term ending on June 30, 2001. Thereafter, each of the members shall be appointed for a term of six years. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. In the event of a vacancy, the governor, with the advice and consent of the

senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The board shall elect a chairperson from its members.

The governor may remove any member of the board at any time for misfeasance, nonfeasance, or malfeasance in office after giving the member a copy of the charges against the member and an opportunity to be heard publicly in person or by counsel in the member's defense. Any such act of removal by the governor is final. A statement of the findings of the governor, the reason for the governor's action, and the answer, if any, of the member shall be filed by the governor with the secretary of state and shall be open to public inspection.

Members of the board shall be paid two hundred fifty dollars for each meeting that the member attends, except that no member shall be paid or receive more than seven hundred fifty dollars for attending meetings during any calendar year. Each member shall be reimbursed for the member's actual and necessary expenses incurred in the performance of official board duties. The chairperson shall be paid two hundred fifty dollars annually in addition to any compensation the chairperson receives under this division for attending meetings and any other compensation the chairperson receives for serving on the board.

The division shall provide the board with such offices and such clerical, professional, and other assistance as may be reasonably necessary for the board to carry on its work. The division shall maintain accurate copies of the board's rules as promulgated in accordance with division (B) of this section and shall keep all of the board's records, including business records,

and inspection reports as well as its own records and reports. The cost of administering the board and conducting inspections shall be included in the budget of the division based on revenues generated by the registration fees established under section 4169.03 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the board shall adopt and may amend or rescind rules relating to public safety in the construction, maintenance, mechanical operation, and inspection of passenger tramways. The rules shall be in accordance with established standards in the business of ski area operation, if any, and shall not discriminate in their application to ski area operators.

No person shall violate the rules of the board.

(C) The authority of the board shall not extend to any matter relative to the operation of a ski area other than the construction, maintenance, mechanical operation, and inspection of passenger tramways.

(D) A majority of the board constitutes a quorum and may perform and exercise all the duties and powers devolving upon the board.

Sec. 4169.03. (A) Before a passenger tramway operator may operate any passenger tramway in the state, the operator shall apply to the ski tramway board, on forms prepared by it, for registration by the board. The application shall contain an inventory of the passenger tramways that the applicant intends to operate and other information as the board may reasonably require and shall be accompanied by the following annual fees:

(1) Each aerial passenger tramway, five hundred dollars;

(2) Each skimobile, two hundred dollars;

(3) Each chair lift, two hundred dollars;

(4) Each J bar, T bar, or platter pull, one hundred dollars;

(5) Each rope tow, fifty dollars;

(6) Each wire rope tow, seventy-five dollars;

(7) Each conveyor, one hundred dollars.

When an operator operates an aerial passenger tramway, a skimobile, or a chair lift during both a winter and summer season, the annual fee shall be one and one-half the above amount for the respective passenger tramway.

(B) Upon payment of the appropriate annual fees in accordance with division (A) of this section, the board shall issue a registration certificate to the operator. Each certificate shall remain in force until the thirtieth day of September next ensuing. The board shall renew an operator's certificate in accordance with the standard renewal procedure in Chapter 4745. of the Revised Code upon payment of the appropriate annual fees.

(C) Money received from the registration fees and from the fines collected pursuant to section 4169.99 of the Revised Code shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(D) No person shall operate a passenger tramway in this state unless the person has been registered by the board.

Sec. 4169.04. (A) The division of ~~labor~~ industrial compliance in the department of commerce shall make such inspection of the construction, maintenance, and mechanical operation of passenger tramways as the ski tramway board may reasonably require. The division may contract with other qualified engineers to make such inspection or may accept the inspection report by any qualified inspector of an insurance company authorized to insure passenger tramways in this state.

(B) If, as the result of an inspection, an employee of the division or other agent with whom the division has contracted finds that a violation of the board's rules exists or a condition in passenger tramway construction, maintenance, or mechanical operation exists that endangers public safety, the employee or agent shall make an immediate report to the board for appropriate investigation and order.

Sec. 4171.04. (A) Before a person may operate any roller skating rink in the state, the person shall:

(1) Apply to the superintendent of ~~labor~~ industrial compliance in the department of commerce on forms designated by the superintendent for a certificate of registration;

(2) Provide an inventory of all the roller skating rinks that the applicant intends to operate, and any other information the superintendent may reasonably require on the application;

(3) Include with the application a registration fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(B) Upon compliance with division (A) of this section, the superintendent shall issue a certificate of registration to the operator for each roller skating rink to be operated by the applicant. Each certificate shall remain in force as follows:

(1) Until the thirty-first day of December next ensuing; or

(2) For sixty days after the dissolution of a partnership.

(C) In case of the dissolution of a partnership by death, the surviving partner or partners may operate a roller skating rink pursuant to the certificate of registration obtained by the partnership in accordance with this chapter for a period of sixty days following dissolution. The heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed

by any competent authority may operate under the certificate of registration of the person succeeded in possession.

(D) The superintendent shall renew an operator's certificate of registration in accordance with the standard license renewal procedure set forth in Chapter 4745. of the Revised Code upon payment of a renewal fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(E) Money received from the registration and renewal fees collected pursuant to this chapter shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 4301.30. (A) All fees collected by the division of liquor control shall be deposited in the state treasury to the credit of the undivided liquor permit fund, which is hereby created, at the time prescribed under section 4301.12 of the Revised Code. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation in such township. ~~An~~

(B)(1) An amount equal to forty-five per cent of the fund shall be paid from the fund into the state liquor regulatory fund, which is hereby created in the state treasury. The state liquor regulatory fund shall be used to pay the operating expenses of the division of liquor control in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the liquor control commission. Investment earnings of the fund shall be credited to the fund.

(2) Whenever, in the judgment of the director of budget and management, the amount of money that is in the state liquor regulatory fund is in excess of the amount that is needed to pay the operating expenses of the division in administering and

enforcing Title XLIII of the Revised Code and the operating expenses of the commission, the director shall credit the excess amount to the general revenue fund.

(C) Twenty per cent of the undivided liquor permit fund shall be paid into the statewide treatment and prevention fund, which is hereby created in the state treasury. This amount shall be appropriated by the general assembly, together with an amount equal to one and one-half per cent of the gross profit of the division of liquor control derived under division (B)(4) of section 4301.10 of the Revised Code, to the department of alcohol and drug addiction services. In planning for the allocation of and in allocating these amounts for the purposes of Chapter 3793. of the Revised Code, the department of alcohol and drug addiction services shall comply with the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, and any rules adopted under that act.

(D) Thirty-five per cent of the undivided liquor permit fund shall be distributed by the superintendent of liquor control at quarterly calendar periods as follows:

~~(A)~~(1) To each municipal corporation, the aggregate amount shown by the statements to have been collected from permits in the municipal corporation, for the use of the general fund of the municipal corporation;

~~(B)~~(2) To each township, the aggregate amount shown by the statements to have been collected from permits in its territory, outside the limits of any municipal corporation located in the township, for the use of the general fund of the township, or for fire protection purposes, including buildings and equipment in the township or in an established fire district within the township, to the extent that the funds are derived from liquor permits within the territory comprising such fire district.

(E) For the purpose of the distribution required by this section, E, H, and D permits covering boats or vessels are deemed to have been issued in the municipal corporation or township wherein the owner or operator of the vehicle, boat, vessel, or dining car equipment to which the permit relates has the owner's or operator's principal office or place of business within the state.

(F) If the liquor control commission determines that the police or other officers of any municipal corporation or township entitled to share in ~~such~~ distributions under this section are refusing or culpably neglecting to enforce this chapter and Chapter 4303. of the Revised Code, or the penal laws of this state relating to the manufacture, importation, transportation, distribution, and sale of beer and intoxicating liquors, or if the prosecuting officer of a municipal corporation or a municipal court fails to comply with the request of the commission authorized by division (A)(4) of section 4301.10 of the Revised Code, the commission, by certified mail, may notify the chief executive officer of the municipal corporation or the board of township trustees of the township of the failure and require the immediate cooperation of the responsible officers of the municipal corporation or township with the division of liquor control in the enforcement of those chapters and penal laws. Within thirty days after the notice is served, the commission shall determine whether the requirement has been complied with. If the commission determines that the requirement has not been complied with, it may issue an order to the superintendent to withhold the distributive share of the municipal corporation or township until further order of the commission. This action of the commission is reviewable within thirty days thereafter in the court of common pleas of Franklin county.

(G) All fees collected by the division of liquor control from

the issuance or renewal of B-2a and S permits, and paid by B-2a and S permit holders who do not also hold A-2 permits, shall be deposited in the state treasury to the credit of the state liquor ~~control~~ regulatory fund. Once during each fiscal year, an amount equal to fifty per cent of the fees collected shall be paid from the state liquor ~~control~~ regulatory fund into the general revenue fund.

Sec. 4303.181. (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests or is owned by a state institution of higher education as defined in section 3345.011 of the Revised Code or a private college or university, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same

privileges as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor control shall issue the permit for which the owner or operator applies and formerly held, notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of D-5a permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5b permit may exercise the same privileges as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty-five thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction of that floor area, up to a maximum

of five D-5b permits for each enclosed shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may be issued at the enclosed shopping center for which the

D-5b permit was issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is two thousand three hundred forty-four dollars.

(C) Permit D-5c may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct that, at the time of the application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand five hundred sixty-three dollars.

(D) Permit D-5d may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located at an airport operated by a board of county commissioners pursuant to section 307.20 of the Revised Code, at an airport operated by a port authority pursuant to Chapter 4582. of the Revised Code, or at an airport operated by a regional airport authority pursuant to Chapter 308. of the Revised Code. The holder of a D-5d permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5d permit may exercise the same privileges as the holder of a D-5 permit.

A D-5d permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued.

The fee for this permit is two thousand three hundred

forty-four dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat that meets all of the following:

(1) Is permanently docked at one location;

(2) Is designated as an historical riverboat by the Ohio historical society;

(3) Contains not less than fifteen hundred square feet of floor area;

(4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is one thousand two hundred nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed

under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

(1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location.

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

A fee for this permit is two thousand three hundred forty-four dollars.

As used in this division, "navigable river" means a river that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after ~~one~~ two-thirty a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. The fee for this permit is one thousand eight hundred seventy-five dollars.

(H)(1) Permit D-5h may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates any of the following:

(a) A fine arts museum, provided that the nonprofit organization has no less than one thousand five hundred bona fide members possessing full membership privileges;

(b) A community arts center. As used in division (H)(1)(b) of this section, "community arts center" means a facility that provides arts programming to the community in more than one arts discipline, including, but not limited to, exhibits of works of art and performances by both professional and amateur artists.

(c) A community theater, provided that the nonprofit organization is a member of the Ohio arts council and the American community theatre association and has been in existence for not less than ten years. As used in division (H)(1)(c) of this section, "community theater" means a facility that contains at least one hundred fifty seats and has a primary function of presenting live theatrical performances and providing recreational opportunities to the community.

(2) The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued.

(3) The fee for a D-5h permit is one thousand eight hundred seventy-five dollars.

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.

(6) It has at least one of the following characteristics:

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or

leases the property to obtain a D-5i permit.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the retail food establishment or food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for the D-5i permit is two thousand three hundred forty-four dollars.

(J) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

The D-5j permit shall be issued only within a community

entertainment district that is designated under section 4301.80 of the Revised Code and that meets one of the following qualifications:

(1) It is located in a municipal corporation with a population of at least one hundred thousand.

(2) It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

(a) It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

(b) Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(3) It is located in a township with a population of at least forty thousand.

(4) It is located in a township with a population of at least twenty thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the township.

(5) It is located in a municipal corporation with a population between ten thousand and twenty thousand, and both of the following apply:

(a) The municipal corporation was incorporated as a village prior to calendar year 1840 and currently has a historic downtown business district.

(b) The municipal corporation is located in the same county as another municipal corporation with at least one community entertainment district.

(6) It is located in a municipal corporation with a

population of at least ten thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(7) It is located in a municipal corporation with a population of at least five thousand, and not less than one hundred million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J)(4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

The fee for a D-5j permit is two thousand three hundred forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in

glass and from the container, on the premises where sold.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand eight hundred seventy-five dollars.

(L)(1) Permit D-5l may be issued to the owner or the operator of a ~~business~~ retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5l permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5l permit shall be issued only to a premises that has gross annual receipts from the sale of food and meals that constitute not less than seventy-five per cent of its total gross annual receipts, that is located within a revitalization district that is designated under section 4301.81 of the Revised Code, that is located in a municipal corporation or township in which the number of D-5 permits issued equals or exceeds the number of those permits that may be issued in that municipal corporation or township under section 4303.29 of the Revised Code, and that is located in a county with a population of one hundred twenty-five

thousand or less according to the population estimates certified by the department of development for calendar year 2006.

(3) The location of a D-5l permit may be transferred only within the geographic boundaries of the revitalization district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5l permit shall be issued within each revitalization district for each five acres of land located within the district. Not more than fifteen D-5l permits may be issued within a single revitalization district. Except as otherwise provided in division (L)(4) of this section, no quota restrictions shall be placed upon the number of D-5l permits that may be issued.

(5) No D-5l permit shall be issued to an adult entertainment establishment as defined in section 2907.39 of the Revised Code.

(6) The fee for a D-5l permit is two thousand three hundred forty-four dollars.

(M) Permit D-5m may be issued to either the owner or the operator of a retail food establishment or food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located in, or affiliated with, a center for the preservation of wild animals as defined in section 4301.404 of the Revised Code, to sell beer and any intoxicating liquor at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5m permit may exercise the same privileges as the holder of a D-5 permit.

A D-5m permit shall not be transferred to another location.

No quota restrictions shall be placed on the number of D-5m permits that may be issued. The fee for a permit D-5m is two thousand three hundred forty-four dollars.

(N) Permit D-5n shall be issued to either a casino operator or a casino management company licensed under Chapter 3772. of the Revised Code that operates a casino facility under that chapter, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5n permit may exercise the same privileges as the holder of a D-5 permit. A D-5n permit shall not be transferred to another location. Only one D-5n permit may be issued per casino facility and not more than four D-5n permits shall be issued in this state. The fee for a permit D-5n shall be twenty thousand dollars. The holder of a D-5n permit may conduct casino gaming on the permit premises notwithstanding any provision of the Revised Code or Administrative Code.

(O) Permit D-5o may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located within a casino facility for which a D-5n permit has been issued. The holder of a D-5o permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5o permit may

exercise the same privileges as the holder of a D-5 permit. A D-5o permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued. The fee for this permit is two thousand three hundred forty-four dollars.

Sec. 4303.22. Permit H may be issued for a fee of three hundred dollars to a for-hire motor carrier ~~by motor vehicle~~ who ~~also~~ holds a license issued by the public utilities commission to transport beer, intoxicating liquor, and alcohol, or any of them, in this state for delivery or use in this state. This section does not prevent the division of liquor control from contracting with ~~common or contract~~ for-hire motor carriers for the delivery or transportation of liquor for the division, and any ~~contract or common~~ for-hire motor carrier so contracting with the division is eligible for an H permit. Manufacturers or wholesale distributors of beer or intoxicating liquor other than spirituous liquor who transport or deliver their own products to or from their premises licensed under this chapter and Chapter 4301. of the Revised Code by their own trucks as an incident to the purchase or sale of such beverages need not obtain an H permit. Carriers by rail shall receive an H permit upon application for it.

This section does not prevent the division from issuing, upon the payment of the permit fee, an H permit to any person, partnership, firm, or corporation licensed by any other state to engage in the business of manufacturing and brewing or producing beer, wine, and mixed beverages or any person, partnership, firm, or corporation licensed by the United States or any other state to engage in the business of importing beer, wine, and mixed beverages manufactured outside the United States. The manufacturer, brewer, or importer of products manufactured outside the United States, upon the issuance of an H permit, may transport, ship, and deliver only its own products to holders of

B-1 or B-5 permits in Ohio in motor trucks and equipment owned and operated by such class H permit holder. No H permit shall be issued by the division to such applicant until the applicant files with the division a liability insurance certificate or policy satisfactory to the division, in a sum of not less than one thousand nor more than five thousand dollars for property damage and for not less than five thousand nor more than fifty thousand dollars for loss sustained by reason of injury or death and with such other terms as the division considers necessary to adequately protect the interest of the public, having due regard for the number of persons and amount of property affected. The certificate or policy shall insure the manufacturer, brewer, or importer of products manufactured outside the United States against loss sustained by reason of the death of or injury to persons, and for loss of or damage to property, from the negligence of such class H permit holder in the operation of its motor vehicles or equipment in this state.

Sec. 4313.02. (A) The state may transfer to JobsOhio, and JobsOhio may accept the transfer of, all or a portion of the enterprise acquisition project for a transfer price payable by JobsOhio to the state. Any such transfer shall be treated as an absolute conveyance and true sale of the interest in the enterprise acquisition project purported to be conveyed for all purposes, and not as a pledge or other security interest. The characterization of any such transfer as a true sale and absolute conveyance shall not be negated or adversely affected by the acquisition or retention by the state of a residual or reversionary interest in the enterprise acquisition project, the participation of any state officer or employee as a member or officer of, or contracting for staff support to, JobsOhio or any subsidiary of JobsOhio, any regulatory responsibility of an officer or employee of the state, including the authority to

collect amounts to be received in connection therewith, the retention of the state of any legal title to or interest in any portion of the enterprise acquisition project for the purpose of regulatory activities, or any characterization of JobsOhio or obligations of JobsOhio under accounting, taxation, or securities regulations, or any other reason whatsoever. An absolute conveyance and true sale or lease shall exist under this section regardless of whether JobsOhio has any recourse against the state or the treatment or characterization of the transfer as a financing for any purpose. Upon and following the transfer, the state shall not have any right, title, or interest in the enterprise acquisition project so transferred other than any residual interest that may be described in the transfer agreement pursuant to the following paragraph and division (D) of this section. Any determination of the fair market value of the enterprise acquisition project reflected in the transfer agreement shall be conclusive and binding on the state and JobsOhio.

Any transfer of the enterprise acquisition project that is a lease or grant of a franchise shall be for a term not to exceed twenty-five years. Any transfer of the enterprise acquisition project that is an assignment and sale, conveyance, or other transfer shall contain a provision that the state shall have the option to have conveyed or transferred back to it, at no cost, the enterprise acquisition project, as it then exists, no later than twenty-five years after the original transfer authorized in the transfer agreement on such other terms as shall be provided in the transfer agreement.

The exercise of the powers granted by this section will be for the benefit of the people of the state. All or any portion of the enterprise acquisition project transferred pursuant to the transfer agreement that would be exempt from real property taxes or assessments or real property taxes or assessments in the

absence of such transfer shall, as it may from time to time exist thereafter, remain exempt from real property taxes or assessments levied by the state and its subdivisions to the same extent as if not transferred. The gross receipts and income of JobsOhio derived from the enterprise acquisition project shall be exempt from taxation levied by the state and its subdivisions, including, but not limited to, the taxes levied pursuant to Chapters 718., 5739., 5741., 5747., and 5751. of the Revised Code. Any transfer from the state to JobsOhio of the enterprise acquisition project, or item included or to be included in the project, shall be exempt from the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code.

(B) The proceeds of any transfer under division (A) of this section may be expended as provided in the transfer agreement for any one or more of the following purposes:

(1) Funding, payment, or defeasance of outstanding bonds issued pursuant to Chapters 151. and 166. of the Revised Code and secured by pledged liquor profits as defined in section 151.40 of the Revised Code;

(2) Deposit into the general revenue fund;

(3) Deposit into the clean Ohio revitalization fund created pursuant to section 122.658 of the Revised Code, the innovation Ohio loan fund created pursuant to section 166.16 of the Revised Code, the research and development loan fund created pursuant to section 166.20 of the Revised Code, the logistics and distribution infrastructure fund created pursuant to section 166.26 of the Revised Code, the advanced energy research and development fund created pursuant to section 3706.27 of the Revised Code, and the advanced energy research and development taxable fund created pursuant to section 3706.27 of the Revised Code;

(4) Conveyance to JobsOhio for the purposes for which it was

created.

(C)(1) The state may covenant, pledge, and agree in the transfer agreement, with and for the benefit of JobsOhio, that it shall maintain statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project.

(2) The director of budget and management, in consultation with the director of commerce, may, without need for any other approval, negotiate terms of any documents, including the transfer agreement, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. The director of budget and management and the director of commerce shall execute the transfer agreement on behalf of the state. The director of budget and management may also, without need for any other approval, retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the judgment of the director of budget and management to effect the transfer agreement. Any transfer agreement may contain terms and conditions established by the state to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of JobsOhio. Any such transfer agreement shall be sufficient to effectuate the transfer without regard to any other laws governing other property sales or financial transactions by the state. The director of budget and management may create any funds or accounts, within or without the state treasury, as are needed for the transactions and activities authorized by this

section.

(3) The transfer agreement may authorize JobsOhio, in the ordinary course of doing business, to convey, lease, release, or otherwise dispose of any regular inventory or tangible personal property. Ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section.

(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to the state, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or provision therefor, of all obligations supported by a pledge of spirituous liquor profits.

(E) JobsOhio, the director of budget and management, and the director of commerce shall, subject to approval by the controlling board, enter into a contract, which may be part of the transfer agreement, for the continuing operation by the division of liquor control of spirituous liquor distribution and merchandising subject to standards for performance provided in that contract that may relate to or support division (C)(1) of this section. The contract shall establish other terms and conditions for the assignment of duties to, and the provision of advice, services, and other assistance by, the division of liquor control, including

providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the division for the performance of such duties and the provision of such advice, services, and other assistance. The division of liquor control shall manage and actively supervise the activities required or authorized under sections 4301.10 and 4301.17 of the Revised Code as those sections exist on ~~the effective date of this section~~ September 29, 2011, including, but not limited to, controlling the traffic in intoxicating liquor in this state and fixing the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor are sold.

(F) The transfer agreement shall require JobsOhio to pay for the operations of the division of liquor control with regard to the spirituous liquor merchandising operations of the division. The payments from JobsOhio shall be deposited into the state treasury to the credit of the liquor ~~control~~ operating services fund ~~created in section 4301.12 of the Revised Code~~, which is hereby created in the state treasury. The fund shall be used to pay for the operations of the division specified in this division.

(G) The transaction and transfer provided for under this section shall comply with all applicable provisions of the Ohio Constitution.

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such

a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(C) "Agricultural tractor" and "traction engine" mean any self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.

(D) "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

(E) "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement.

(F) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special

interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

(G) "Historical motor vehicle" means any motor vehicle that is over twenty-five years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle, including a farm truck as defined in section 4503.04 of the Revised Code, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers, except any motor vehicle that is designed and used for carrying not more than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.

(K) "Bicycle" means every device, other than a tricycle that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which any person may ride,

and that has two tandem wheels, or one wheel in front and two wheels in the rear, or two wheels in the front and one wheel in the rear, any of which is more than fourteen inches in diameter.

(L) "Motorized bicycle" means any vehicle that either has two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

(M) "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. "Trailer" does not include a manufactured home or travel trailer.

(N) "Noncommercial trailer" means any trailer, except a travel trailer or trailer that is used to transport a boat as described in division (B) of this section, but, where applicable, includes a vehicle that is used to transport a boat as described in division (M) of this section, that has a gross weight of no more than ten thousand pounds, and that is used exclusively for purposes other than engaging in business for a profit, such as the

transportation of personal items for personal or recreational purposes.

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

(1) It is designed for the sole purpose of recreational travel.

(2) It is not used for the purpose of engaging in business for profit.

(3) It is not used for the purpose of engaging in intrastate commerce.

(4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission pursuant to Chapter ~~4919~~ 4905., 4921., or 4923. of the Revised Code.

(6) It is classed as one of the following:

(a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Revised Code.

(b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

(c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four

hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.

(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.

(U) "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm, agricultural tractors, threshing machinery, hay-baling machinery, corn shellers, hammermills, and machinery used in the production of horticultural, agricultural, and vegetable products.

(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers.

(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles shall be deemed to be used exclusively for those purposes even though snowmobiles or

all-purpose vehicles are sold or displayed for sale thereat, even though farm machinery is sold or displayed for sale thereat, or even though repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained thereat, or, in any county having a population of less than seventy-five thousand at the last federal census, even though a department in a place of business is used to dismantle, salvage, or rebuild motor vehicles by means of used parts, if such departments are operated for the purpose of furthering and assisting in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts are not considered as being maintained for the purpose of assisting or furthering the manufacturing, selling, displaying, and offering for sale or dealing in motor vehicles.

(X) "Operator" includes any person who drives or operates a motor vehicle upon the public highways.

(Y) "Chauffeur" means any operator who operates a motor vehicle, other than a taxicab, as an employee for hire; or any operator whether or not the owner of a motor vehicle, other than a taxicab, who operates such vehicle for transporting, for gain, compensation, or profit, either persons or property owned by another. Any operator of a motor vehicle who is voluntarily involved in a ridesharing arrangement is not considered an employee for hire or operating such vehicle for gain, compensation, or profit.

(Z) "State" includes the territories and federal districts of the United States, and the provinces of Canada.

(AA) "Public roads and highways" for vehicles includes all public thoroughfares, bridges, and culverts.

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(HH) "International registration plan" means a reciprocal agreement of member jurisdictions that is endorsed by the American association of motor vehicle administrators, and that promotes and encourages the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles and recognizing registration of vehicles apportioned in member jurisdictions.

(II) "Restricted plate" means a license plate that has a restriction of time, geographic area, mileage, or commodity, and includes license plates issued to farm trucks under division (J) of section 4503.04 of the Revised Code.

(JJ) "Gross vehicle weight," with regard to any commercial car, trailer, semitrailer, or bus that is taxed at the rates established under section 4503.042 or 4503.65 of the Revised Code, means the unladen weight of the vehicle fully equipped plus the maximum weight of the load to be carried on the vehicle.

(KK) "Combined gross vehicle weight" with regard to any combination of a commercial car, trailer, and semitrailer, that is

taxed at the rates established under section 4503.042 or 4503.65 of the Revised Code, means the total unladen weight of the combination of vehicles fully equipped plus the maximum weight of the load to be carried on that combination of vehicles.

(LL) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(MM) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(NN) "Acquired situs," with respect to a manufactured home or a mobile home, means to become located in this state by the placement of the home on real property, but does not include the placement of a manufactured home or a mobile home in the inventory of a new motor vehicle dealer or the inventory of a manufacturer, remanufacturer, or distributor of manufactured or mobile homes.

(OO) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(PP) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(QQ) "Electronic signature" means a signature in electronic

form attached to or logically associated with an electronic record.

(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code.

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities. "Utility vehicle" includes a vehicle with a maximum attainable speed of twenty miles per hour or less that is used exclusively within the boundaries of state parks by state park employees or volunteers for the operation or maintenance of state park facilities.

Sec. 4501.06. The taxes, fees, and fines levied, charged, or referred to in division (O) of section 4503.04, division (E) of section 4503.042, division (B) of section 4503.07, division (C)(1) of section 4503.10, division (D) of section 4503.182, division (A) of section 4503.19, division (D)(2) of section 4507.24, division (A) of section 4508.06, and sections 4503.40, 4503.42, 4505.11, 4505.111, 4506.08, 4506.09, 4507.23, 4508.05, ~~4923.12,~~ and 5502.12 of the Revised Code, and the taxes charged in section 4503.65 that are distributed in accordance with division (A)(2) of section 4501.044 of the Revised Code unless otherwise designated by law, shall be deposited in the state treasury to the credit of the state highway safety fund, which is hereby created, and shall, after receipt of certifications from the commissioners of the sinking fund certifying that there are sufficient moneys to the credit of the highway obligations bond retirement fund created by section 5528.32 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, be used for the purpose of enforcing and paying the expenses of administering the law relative to the registration and operation of motor vehicles on the public roads or highways. Amounts credited to the fund may also be used to pay the expenses of administering and enforcing the laws under which such fees were collected. All investment earnings of the state highway safety fund shall be credited to the fund.

Sec. 4501.271. (A)(1) A peace officer, correctional employee, or youth services employee may file a written request with the bureau of motor vehicles to do either or both of the following:

(a) Prohibit disclosure of the officer's or employee's residence address as contained in motor vehicle records of the bureau;

(b) Provide a business address to be displayed on the officer's or employee's driver's license or certificate of registration, or both.

(2) The officer or employee shall file the request described in division (A)(1) of this section on a form provided by the registrar of motor vehicles and shall provide any documentary evidence verifying the person's status as a peace officer, correctional employee, or youth services employee and the officer's or employee's business address that the registrar requires pursuant to division (G) of this section.

(B)(1) Except as provided in division (C) of this section, if a peace officer, correctional employee, or youth services employee has filed a request under division (A) of this section, neither the registrar nor an employee or contractor of the bureau of motor vehicles shall knowingly disclose the residence address of the officer or employee that the bureau obtained in connection with a motor vehicle record.

(2) In accordance with section 149.43 of the Revised Code, the registrar or an employee or contractor of the bureau shall make available for inspection or copying a motor vehicle record of a peace officer, correctional employee, or youth services employee who has filed a request under division (A) of this section if the record is a public record under that section, but shall obliterate the residence address of the officer or employee from the record before making the record available for inspection or copying. The business address of the officer or employee may be made available in response to a valid request under section 149.43 of the Revised Code.

(C) Notwithstanding division (B)(2) of section 4501.27 of the Revised Code, the registrar or an employee or contractor of the bureau may disclose the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A) of this section only in accordance with division (B)(1) of section 4501.27 of the Revised Code or pursuant to a court order.

(D) If a peace officer, correctional employee, or youth services employee files a request under division (A)(1)(b) of this section, the officer shall still provide a residence address in any application for a driver's license or license renewal and in any application for a motor vehicle registration or registration renewal. In accordance with sections 4503.101 and 4507.09 of the Revised Code, an officer or employee shall notify the registrar of any change in the officer's or employee's residence within ten days after the change occurs.

(E) A certificate of registration issued to a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer. Notwithstanding section 4507.13 of the Revised Code, a driver's license issued to an officer or employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer or employee.

(F) The registrar may utilize the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section in carrying out the functions of the bureau of motor vehicles, including determining the district of registration for any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, determining whether tailpipe emissions inspections are required, and financial responsibility verification.

(G) The registrar shall adopt rules governing a request for confidentiality of a peace officer's, correctional employee's, or youth services employee's residence address or use of a business address, including the documentary evidence required to verify the person's status as a peace officer, correctional employee, or youth services employee, the length of time that the request will be valid, procedures for ensuring that the bureau of motor vehicles receives notice of any change in a person's status as a peace officer, correctional employee, or youth services employee, and any other procedures the registrar considers necessary. The rules of the registrar may require an officer or employee to surrender any certificate of registration and any driver's license bearing the business address of the officer or employee and, upon payment of any applicable fees, to receive a certificate of registration and license bearing the officer's or employee's residence address, whenever the officer or employee no longer is associated with that business address.

(H) As used in this section:

(1) "Motor vehicle record" has the same meaning as in section 4501.27 of the Revised Code.

(2) "Peace officer" means those persons described in division (A)(1), (2), (4), (5), (6), (9), (10), (12), (13), or (15) of section 109.71 of the Revised Code, an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code, the house sergeant at arms appointed under division (B)(1) of section 101.311 of the Revised Code, ~~and~~ any assistant sergeant at arms appointed under division (C)(1) of

section 101.311 of the Revised Code, the senate sergeant at arms, and an assistant senate sergeant at arms. "Peace officer" includes state highway patrol troopers but does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

(3) "Correctional employee" and "youth services employee" have the same meanings as in section 149.43 of the Revised Code.

Sec. 4503.031. (A)(1) If the registrar of motor vehicles determines that space is available at a deputy registrar's office, the clerk of the court of common pleas in the county where the deputy is located shall be given the opportunity to use the space for the purpose of carrying out the clerk's duties related to the titling of motor vehicles. Each clerk of the court of common pleas using space in a deputy registrar's office shall remit to the deputy a rental fee equal to the percentage of space occupied by the clerk in the deputy's office multiplied by the rental fee or mortgage cost paid for the entire deputy registrar's office plus a pro rata share of all utility costs.

(2) If the clerk of the court of common pleas determines that space is available at any location at which the clerk has an office, the clerk shall inform the registrar of that fact and shall provide the registrar with all pertinent information about the available space. After giving due consideration to the locations of deputy registrar offices existing in the county in which the clerk of the court of common pleas is located, the registrar shall inform the appropriate deputy registrars, if any, of the available space of the clerk of the court of common pleas. Each such deputy registrar shall be given the opportunity to use the space for the purpose of carrying out the deputy registrar's duties. Each deputy registrar using space in the office of the

clerk of a court of common pleas shall remit to the clerk a rental fee equal to the percentage of space occupied by the deputy registrar in the clerk's office multiplied by the rental fee or mortgage cost, if any, paid for the entire clerk's office plus a pro rata share of all utility costs.

If no current deputy registrar elects to utilize the available space of the clerk of the court of common pleas, the registrar shall inform all persons who express an interest to the registrar in becoming a deputy registrar in that county of the available space of the clerk if the space in fact continues to be available.

(3) A clerk of the court of common pleas and a deputy registrar may elect to occupy a location at which neither the clerk nor the deputy currently is an occupant. Any such arrangement is subject to the approval of the registrar, who shall give due consideration to all issues and aspects of the proposed arrangement, including security at the location and service to the public.

(B) ~~The~~ When possible, as determined by the director of public safety and the registrar ~~and the superintendent of the state highway patrol shall cooperate to the fullest extent possible in locating,~~ a driver's license examination station shall be located at or near a deputy registrar's office. For each driver's license examination station located at a deputy registrar's office, the ~~superintendent of the state highway patrol~~ director shall remit to the deputy a rental fee equal to the percentage of space occupied for the driver's license examination station multiplied by the rental fee or mortgage cost paid for the entire deputy registrar's office plus a pro rata share of all utility costs.

(C) During the regular business hours of deputy registrars, the registrar shall keep the central office open and sufficiently

staffed to be able to respond to the technical needs of the deputies.

(D) The registrar shall adopt rules to promote public information regarding motor vehicle registration. The rules shall include:

(1) The operation by the registrar, during the regular business hours of deputy registrars, of a toll-free telephone number to give information and receive complaints;

(2) The listing by the registrar, of each deputy registrar, together with the toll-free telephone number required under division (D)(1) of this section, in the local business and advertising telephone directory for the area served by the deputy, under the heading of the bureau of motor vehicles.

Sec. 4503.061. (A) All manufactured and mobile homes shall be listed on either the real property tax list or the manufactured home tax list of the county in which the home has situs. Each owner shall follow the procedures in this section to identify the home to the county auditor of the county containing the taxing district in which the home has situs so that the auditor may place the home on the appropriate tax list.

(B) When a manufactured or mobile home first acquires situs in this state and is subject to real property taxation pursuant to division (B)(1) or (2) of section 4503.06 of the Revised Code, the owner shall present to the auditor of the county containing the taxing district in which the home has its situs the certificate of title for the home, together with proof that all taxes due have been paid and proof that a relocation notice was obtained for the home if required under this section. Upon receiving the certificate of title and the required proofs, the auditor shall place the home on the real property tax list and proceed to treat the home as other properties on that list. After the auditor has

placed the home on the tax list of real and public utility property, the auditor shall deliver the certificate of title to the clerk of the court of common pleas that issued it pursuant to section 4505.11 of the Revised Code, and the clerk shall inactivate the certificate of title.

(C)(1) When a manufactured or mobile home subject to a manufactured home tax is relocated to or first acquires situs in any county that has adopted a permanent manufactured home registration system, as provided in division (F) of this section, the owner, within thirty days after the home is relocated or first acquires situs under section 4503.06 of the Revised Code, shall register the home with the county auditor of the county containing the taxing district in which the home has its situs. For the first registration in each county of situs, the owner or vendee in possession shall present to the county auditor an Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title as such are required by law, and proof, as required by the county auditor, that the home, if it has previously been occupied and is being relocated, has been previously registered, that all taxes due and required to be paid under division (H)(1) of this section before a relocation notice may be issued have been paid, and that a relocation notice was obtained for the home if required by division (H) of this section. If the owner or vendee does not possess the Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title at the time the owner or vendee first registers the home in a county, the county auditor shall register the home without presentation of the document, but the owner or vendee shall present the certificate of title, certified copy of the certificate of title, or memorandum certificate of title to the county auditor within fourteen days after the owner or vendee obtains possession of the document.

(2) When a manufactured or mobile home is registered for the first time in a county and when the total tax due has been paid as required by division (F) of section 4503.06 of the Revised Code or divisions (E) and (H) of this section, the county treasurer shall note by writing or by a stamp on the certificate of title, certified copy of certificate of title, or memorandum certificate of title that the home has been registered and that the taxes due, if any, have been paid for the preceding five years and for the current year. The treasurer shall then issue a certificate evidencing registration and a decal to be displayed on the street side of the home. The certificate is valid in any county in this state during the year for which it is issued.

(3) For each year thereafter, the county treasurer shall issue a tax bill stating the amount of tax due under section 4503.06 of the Revised Code, as provided in division (D)(6) of that section. When the total tax due has been paid as required by division (F) of that section, the county treasurer shall issue a certificate evidencing registration that shall be valid in any county in this state during the year for which the certificate is issued.

(4) The permanent decal issued under this division is valid during the period of ownership, except that when a manufactured home is relocated in another county the owner shall apply for a new registration as required by this section and section 4503.06 of the Revised Code.

(D)(1) All owners of manufactured or mobile homes subject to the manufactured home tax being relocated to or having situs in a county that has not adopted a permanent registration system, as provided in division (F) of this section, shall register the home within thirty days after the home is relocated or first acquires situs under section 4503.06 of the Revised Code and thereafter shall annually register the home with the county auditor of the

county containing the taxing district in which the home has its situs.

(2) Upon the annual registration, the county treasurer shall issue a tax bill stating the amount of annual manufactured home tax due under section 4503.06 of the Revised Code, as provided in division (D)(6) of that section. When a manufactured or mobile home is registered and when the tax for the current one-half year has been paid as required by division (F) of that section, the county treasurer shall issue a certificate evidencing registration and a decal. The certificate and decal are valid in any county in this state during the year for which they are issued. The decal shall be displayed on the street side of the home.

(3) For the first annual registration in each county of situs, the county auditor shall require the owner or vendee to present an Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title as such are required by law, and proof, as required by the county auditor, that the manufactured or mobile home has been previously registered, if such registration was required, that all taxes due and required to be paid under division (H)(1) of this section before a relocation notice may be issued have been paid, and that a relocation notice was obtained for the home if required by division (H) of this section. If the owner or vendee does not possess the Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title at the time the owner or vendee first registers the home in a county, the county auditor shall register the home without presentation of the document, but the owner or vendee shall present the certificate of title, certified copy of the certificate of title, or memorandum certificate of title to the county auditor within fourteen days after the owner or vendee obtains possession of the document. When the county treasurer receives the tax payment, the county

treasurer shall note by writing or by a stamp on the certificate of title, certified copy of the certificate of title, or memorandum certificate of title that the home has been registered for the current year and that the manufactured home taxes due, if any, have been paid for the preceding five years and for the current year.

(4) For subsequent annual registrations, the auditor may require the owner or vendee in possession to present an Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title to the county treasurer upon payment of the manufactured home tax that is due.

(E)(1) Upon the application to transfer ownership of a manufactured or mobile home for which manufactured home taxes are paid pursuant to division (C) of section 4503.06 of the Revised Code the clerk of the court of common pleas shall not issue any certificate of title that does not contain or have attached both of the following:

(a) An endorsement of the county treasurer stating that the home has been registered for each year of ownership and that all manufactured home taxes imposed pursuant to section 4503.06 of the Revised Code have been paid or that no tax is due;

(b) An endorsement of the county auditor that the manufactured home transfer tax imposed pursuant to section 322.06 of the Revised Code and any fees imposed under division (G) of section 319.54 of the Revised Code have been paid.

(2) If all the taxes have not been paid, the clerk shall notify the vendee to contact the county treasurer of the county containing the taxing district in which the home has its situs at the time of the proposed transfer. The county treasurer shall then collect all the taxes that are due for the year of the transfer and all previous years not exceeding a total of five years. The

county treasurer shall distribute that part of the collection owed to the county treasurer of other counties if the home had its situs in another county during a particular year when the unpaid tax became due and payable. The burden to prove the situs of the home in the years that the taxes were not paid is on the transferor of the home. Upon payment of the taxes, the county auditor shall remove all remaining taxes from the manufactured home tax list and the delinquent manufactured home tax list, and the county treasurer shall release all liens for such taxes. The clerk of courts shall issue a certificate of title, free and clear of all liens for manufactured home taxes, to the transferee of the home.

(3) Once the transfer is complete and the certificate of title has been issued, the transferee shall register the manufactured or mobile home pursuant to division (C) or (D) of this section with the county auditor of the county containing the taxing district in which the home remains after the transfer or, if the home is relocated to another county, with the county auditor of the county to which the home is relocated. The transferee need not pay the annual tax for the year of acquisition if the original owner has already paid the annual tax for that year.

(F) The county auditor may adopt a permanent registration system and issue a permanent decal with the first registration as prescribed by the tax commissioner.

(G) When any manufactured or mobile home required to be registered by this section is not registered, the county auditor shall impose a penalty of one hundred dollars upon the owner and deposit the amount to the credit of the county real estate assessment fund to be used to pay the costs of administering this section and section 4503.06 of the Revised Code. If unpaid, the penalty shall constitute a lien on the home and shall be added by

the county auditor to the manufactured home tax list for collection.

(H)(1) Except as otherwise provided in this division, before moving a manufactured or mobile home on public roads from one address within this state to another address within or outside this state, the owner of the home shall obtain a relocation notice, as provided by this section, from the auditor of the county in which the home is located if the home is currently subject to taxation pursuant to section 4503.06 of the Revised Code. The auditor shall charge five dollars for the notice, and deposit the amount to the credit of the county real estate assessment fund to be used to pay the costs of administering this section and section 4503.06 of the Revised Code. The auditor shall not issue a relocation notice unless all taxes owed on the home under section 4503.06 of the Revised Code that were first charged to the home during the period of ownership of the owner seeking the relocation notice have been paid. If the home is being moved by a new owner of the home or by a party taking repossession of the home, the auditor shall not issue a relocation notice unless all of the taxes due for the preceding five years and for the current year have been paid. A relocation notice issued by a county auditor is valid until the last day of December of the year in which it was issued.

If the home is being moved by a sheriff, police officer, constable, bailiff, or manufactured home park operator, as defined in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of any of these persons, for purposes of removal from a manufactured home park and storage, sale, or destruction under section 1923.14 of the Revised Code, the auditor shall issue a relocation notice without requiring payment of any taxes owed on the home under section 4503.06 of the Revised Code.

(2) If a manufactured or mobile home is not yet subject to

taxation under section 4503.06 of the Revised Code, the owner of the home shall obtain a relocation notice from the dealer of the home. Within thirty days after the manufactured or mobile home is purchased, the dealer of the home shall provide the auditor of the county in which the home is to be located written notice of the name of the purchaser of the home, the registration number or vehicle identification number of the home, and the address or location to which the home is to be moved. The county auditor shall provide to each manufactured and mobile home dealer, without charge, a supply of relocation notices to be distributed to purchasers pursuant to this section.

(3) The notice shall be in the form of a one-foot square yellow sign with the words "manufactured home relocation notice" printed prominently on it. The name of the owner of the home, the home's registration number or vehicle identification number, the county and the address or location to which the home is being moved, and the county in which the notice is issued shall also be entered on the notice.

(4) The relocation notice must be attached to the rear of the home when the home is being moved on a public road. Except as provided in divisions (H)(1) and (5) of this section, no person shall drive a motor vehicle moving a manufactured or mobile home on a public road from one address to another address within this state unless a relocation notice is attached to the rear of the home.

(5) If the county auditor determines that a manufactured or mobile home has been moved without a relocation notice as required under this division, the auditor shall impose a penalty of one hundred dollars upon the owner of the home and upon the person who moved the home and deposit the amount to the credit of the county real estate assessment fund to pay the costs of administering this section and section 4503.06 of the Revised Code. If the home was

relocated from one county in this state to another county in this state and the county auditor of the county to which the home was relocated imposes the penalty, that county auditor, upon collection of the penalty, shall cause an amount equal to the penalty to be transmitted from the county real estate assessment fund to the county auditor of the county from which the home was relocated, who shall deposit the amount to the credit of the county real estate assessment fund. If the penalty on the owner is unpaid, the penalty shall constitute a lien on the home and the auditor shall add the penalty to the manufactured home tax list for collection. If the county auditor determines that a dealer that has sold a manufactured or mobile home has failed to timely provide the information required under this division, the auditor shall impose a penalty upon the dealer in the amount of one hundred dollars. The penalty shall be credited to the county real estate assessment fund and used to pay the costs of administering this section and section 4503.06 of the Revised Code.

(I) Whoever violates division (H)(4) of this section is guilty of a minor misdemeanor.

Sec. 4503.062. (A) Every operator of a manufactured home court, or manufactured home park, as defined in section ~~3733.01~~ 4781.01 of the Revised Code, or when there is no operator, every owner of property used for such purposes on which three or more manufactured or mobile homes are located, shall keep a register of all manufactured and mobile homes that make use of the court, park, or property. The register shall contain all of the following:

(1) The name of the owner and all inhabitants of each home;

(2) The ages of all inhabitants of each home;

(3) The permanent and temporary post office addresses of all inhabitants of each home;

(4) The license number of each home;

(5) The state issuing each such license;

(6) The date of arrival and of departure of each home;

(7) The make and model of each home, if known and if either of the following applies:

(a) The home enters the court, park, or property on or after January 1, 2003.

(b) Ownership of the home in the court or park, or on the property, is transferred on or after January 1, 2003.

(B) The register shall be open to inspection by the county auditor, the county treasurer, agents of the auditor or treasurer, and all law enforcement agencies at all times.

(C) Any person who fails to comply with this section shall be fined not less than twenty-five nor more than one hundred dollars.

Sec. 4503.49. (A) As used in this section, "ambulance," "ambulette," "emergency medical service organization," "nonemergency medical service organization," and "nontransport vehicle" have the same meanings as in section 4766.01 of the Revised Code.

(B) Each private emergency medical service organization and each private nonemergency medical service organization shall apply to the registrar of motor vehicles for the registration of any ambulance, ambulette, or nontransport vehicle it owns or leases. The application shall be accompanied by a copy of the certificate of licensure issued to the organization by the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services and the following fees:

(1) The regular license tax as prescribed under section 4503.04 of the Revised Code;

(2) Any local license tax levied under Chapter 4504. of the Revised Code;

(3) An additional fee of seven dollars and fifty cents. The additional fee shall be for the purpose of compensating the bureau of motor vehicles for additional services required to be performed under this section and shall be transmitted by the registrar to the treasurer of state for deposit in the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(C) On receipt of a complete application, the registrar shall issue to the applicant the appropriate certificate of registration for the vehicle and do one of the following:

(1) Issue a set of license plates with a validation sticker and a set of stickers to be attached to the plates as an identification of the vehicle's classification as an ambulance, ambulette, or nontransport vehicle;

(2) Issue a validation sticker alone when so required by section 4503.191 of the Revised Code.

Sec. 4503.81. As used in the bus taxation proration and reciprocity agreement authorized by section 4503.80 of the Revised Code, with reference to Ohio, "administrator" means the registrar of motor vehicles.

The registrar may make such exemptions from the coverage of the agreement as may be appropriate and may make such changes in methods for the reporting of any information required to be furnished to this state pursuant to the agreement as, in ~~his~~ the registrar's judgment, are suitable; provided that any such exemptions or changes shall not be contrary to the purposes set forth in article I of the agreement and shall be made in order to permit the continuance of uniformity of practice among the contracting states with respect to buses. Any such exemption or

change shall be made by rule adopted under Chapter 119. of the Revised Code. Unless otherwise provided in any statute withdrawing this state from participation in the agreement, the governor shall be the officer to give notice of withdrawal therefrom.

The fees referred to in article IV (a) of the agreement shall include the fees provided in section 4503.04 of the Revised Code and the annual tax provided in section ~~4921.18~~ 4921.19 of the Revised Code. As to the state of Ohio, article V (d) shall mean that all fleets not subject to this compact shall continue to enjoy that reciprocity and those privileges extended by virtue of other provisions of the Revised Code.

Nothing contained herein shall be construed so as to permit a fleet which is prorating under the laws of another state to avoid proration under this compact.

The registrar of motor vehicles shall collect a fee of two dollars per bus for every bus registered under the provisions of article IV (a) for administration of the agreement, in addition to the fees provided in article IV (a).

The registrar of motor vehicles shall assess the operator of buses registered under the provisions of article IV (a) the actual cost of ~~his~~ the registrar's auditing the accuracy of the fees paid by the operator in accordance with article IV (a).

The registrar of motor vehicles may renounce the participation of this state in the bus taxation proration and reciprocity agreement under article VI of section 4503.80 of the Revised Code, ~~if he finds~~ after finding that further participation in the compact is not in the best interests of the state. The registrar shall set forth ~~his~~ the registrar's reasons in writing and serve notice of intention to renounce the compact upon the owner of each registered fleet. ~~He~~ The registrar shall then certify the renunciation to the governor.

Sec. 4506.01. As used in this chapter:

(A) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath, or urine. When expressed as a percentage, it means grams of alcohol per the following:

(1) One hundred milliliters of whole blood, blood serum, or blood plasma;

(2) Two hundred ten liters of breath;

(3) One hundred milliliters of urine.

(B) "Commercial driver's license" means a license issued in accordance with this chapter that authorizes an individual to drive a commercial motor vehicle.

(C) "Commercial driver's license information system" means the information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 3207-171, 49 U.S.C.A. App. 2701.

(D) Except when used in section 4506.25 of the Revised Code, "commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:

(1) Any combination of vehicles with a combined gross vehicle weight rating of twenty-six thousand one pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand pounds;

(2) Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of ten thousand pounds;

(3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen

or more passengers including the driver;

(4) Any school bus with a gross vehicle weight rating of less than twenty-six thousand one pounds that is designed to transport fewer than sixteen passengers including the driver;

(5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;

(6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the federal motor carrier safety administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

(E) "Controlled substance" means all of the following:

(1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;

(2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;

(3) Any drug of abuse.

(F) "Conviction" means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(G) "Disqualification" means any of the following:

(1) The suspension, revocation, or cancellation of a person's

privileges to operate a commercial motor vehicle;

(2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;

(3) A determination by the federal motor carrier safety administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.

(H) "Downgrade" means any of the following, as applicable:

(1) A change in the commercial driver's license holder's self-certified status as described in division (A)(2) of section 4506.10 of the Revised Code;

(2) A change to a lesser class of vehicle;

(3) Removal of commercial driver's license privileges from the individual's driver's license.

(I) "Drive" means to drive, operate, or be in physical control of a motor vehicle.

(J) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.

(K) "Driver's license" means a license issued by the bureau of motor vehicles that authorizes an individual to drive.

(L) "Drug of abuse" means any controlled substance, dangerous drug as defined in section 4729.01 of the Revised Code, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.

(M) "Electronic device" includes a cellular telephone, a personal digital assistant, a pager, a computer, and any other device used to input, write, send, receive, or read text.

(N) "Eligible unit of local government" means a village, township, or county that has a population of not more than three thousand persons according to the most recent federal census.

(O) "Employer" means any person, including the federal government, any state, and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

(P) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

(Q) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production, and livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this division and is not used in the operations of a ~~motor transportation company or private~~ motor carrier, as defined in section 4923.01 of the Revised Code.

(R) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of death.

(S) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this state, regardless of the penalty that may be

imposed.

(T) "Foreign jurisdiction" means any jurisdiction other than a state.

(U) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.

(V) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.

(W) "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(X) "Medical variance" means one of the following received by a driver from the federal motor carrier safety administration that allows the driver to be issued a medical certificate:

(1) An exemption letter permitting operation of a commercial motor vehicle under 49 C.F.R. 381, subpart C or 49 C.F.R. 391.64;

(2) A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 391.49.

(Y) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power

used on highways, except that such term does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(Z) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian, or Mexican jurisdiction declaring that a driver, commercial motor vehicle, or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.

(AA) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(BB) "Portable tank" means a liquid or gaseous packaging designed primarily to be loaded onto or temporarily attached to a vehicle and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means.

(CC) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of section 4511.01 of the Revised Code.

(DD) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in section 4501.01 of the Revised Code and is used exclusively for purposes other than engaging in business for profit.

(EE) "Residence" means any person's residence determined in accordance with standards prescribed in rules adopted by the registrar.

(FF) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

(GG) "Serious traffic violation" means any of the following:

(1) A conviction arising from a single charge of operating a commercial motor vehicle in violation of any provision of section 4506.03 of the Revised Code;

(2) A violation while operating a commercial motor vehicle of

a law of this state, or any municipal ordinance or county or township resolution prohibiting texting while driving, or any other substantially similar law of another state or political subdivision of another state;

(3) A conviction arising from the operation of any motor vehicle that involves any of the following:

(a) A single charge of any speed in excess of the posted speed limit by fifteen miles per hour or more;

(b) Violation of section 4511.20 or 4511.201 of the Revised Code or any similar ordinance or resolution, or of any similar law of another state or political subdivision of another state;

(c) Violation of a law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, or of any similar law of another state or political subdivision of another state, that results in a fatal accident;

(d) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(e) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;

(f) Violation of section 4511.33 or 4511.34 of the Revised Code, or any municipal ordinance or county or township resolution

substantially similar to either of those sections, or any substantially similar law of another state or political subdivision of another state;

(g) Violation of any other law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, that is determined to be a serious traffic violation by the United States secretary of transportation and the director designates as such by rule.

(HH) "State" means a state of the United States and includes the District of Columbia.

(II) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid and has a maximum capacity greater than one hundred nineteen gallons or is designed to transport gaseous materials and has a water capacity greater than one thousand pounds within a tank that is either permanently or temporarily attached to the vehicle or its chassis. "Tank vehicle" does not include any of the following:

(1) Any portable tank having a rated capacity of less than one thousand gallons;

(2) Tanks used exclusively as a fuel tank for the motor vehicle to which it is attached;

(3) An empty storage container tank that is not designed for transportation and that is readily distinguishable from a transportation tank;

(4) Ready-mix concrete mixers.

(JJ) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to division (B) of section 4506.09 of the Revised Code.

(KK) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. Texting includes

short message service, e-mail, instant messaging, a command or request to access a world wide web page, or engaging in any other form of electronic text retrieval or entry, for present or future communication. Texting does not include the following:

(1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call or using voice commands to initiate or receive a telephone call;

(2) Inputting, selecting, or reading information on a global positioning system or navigation system.

(LL) "Texting while driving" means texting while operating a commercial motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and is stopped in a location where the vehicle can safely remain stationary.

(MM) "United States" means the fifty states and the District of Columbia.

(NN) "Upgrade" means a change in the class of vehicles, endorsements, or self-certified status as described in division (A)(2) of section 4506.10 of the Revised Code, that expands the ability of a current commercial driver's license holder to operate commercial motor vehicles under this chapter;

(OO) "Vehicle" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 4506.03. (A) Except as provided in divisions (B) and (C) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a highway in this state unless the person holds, and has in the person's possession, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the registrar of motor vehicles, a valid examiner's commercial driving permit issued under section 4506.13 of the Revised Code, a valid restricted commercial driver's license and waiver for farm-related service industries issued under section 4506.24 of the Revised Code, or a valid commercial driver's license temporary instruction permit issued by the registrar and is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license with proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license until the person surrenders to the registrar of motor vehicles all valid licenses issued to the person by another jurisdiction recognized by this state. The registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority.

(3) No person who has been a resident of this state for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(B) Nothing in division (A) of this section applies to any qualified person when engaged in the operation of any of the following:

(1) A farm truck;

(2) Fire equipment for a fire department, volunteer or

nonvolunteer fire company, fire district, or joint fire district;

(3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;

(4) A recreational vehicle;

(5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under this chapter and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;

(6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserve technicians.

(7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the public utilities commission pursuant to Chapter ~~4919~~ 4905., 4921., or 4923. of the Revised Code.

(8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;

(9) A police SWAT team vehicle;

(10) A police vehicle used to transport prisoners.

(C) Nothing contained in division (B)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this state concerning the safe operation of commercial motor vehicles.

(D) Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 4506.22. (A) The director of public safety and the registrar of motor vehicles, subject to approval by the director, may, in accordance with Chapter 119. of the Revised Code, adopt any rules necessary to carry out this chapter.

(B) The department of public safety may do all of the following:

(1) Enter into or make any agreements, arrangements, or declarations necessary to carry out this chapter;

(2) Charge a fee for all publications that is equal to the cost of printing the publications.

(C) Nothing in this chapter shall be construed to restrict the authority of the public utilities commission specified in Chapters 4905., 4921., and 4923. of the Revised Code regarding safety rules applicable to motor carriers.

Sec. 4506.25. (A) As used in this section, "commercial motor vehicle" means any self-propelled or towed vehicle used on public highways in intrastate or interstate commerce to transport passengers or property that meets any of the following specifications:

(1) The vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more.

(2) The vehicle is designed to transport sixteen or more

passengers, including the driver.

(3) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the regulations issued by the United States secretary of transportation under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended.

(B) The registrar of motor vehicles shall disqualify any person from operating a commercial motor vehicle who receives a notice of a conviction for violation of an out-of-service order issued under rules of the public utilities commission adopted pursuant to ~~section 4919.79, 4921.04~~ Chapter 4905., 4921., or ~~4923.20~~ 4923. of the Revised Code, or a conviction for a violation of the same or similar laws of another state or jurisdiction applicable to vehicles in regulated commerce.

Sec. 4507.01. (A) As used in this chapter, "motor vehicle," "motorized bicycle," "state," "owner," "operator," "chauffeur," and "highways" have the same meanings as in section 4501.01 of the Revised Code.

"Driver's license" means a class D license issued to any person to operate a motor vehicle or motor-driven cycle, other than a commercial motor vehicle, and includes "probationary license," "restricted license," and any operator's or chauffeur's license issued before January 1, 1990.

"Probationary license" means the license issued to any person between sixteen and eighteen years of age to operate a motor vehicle.

"Restricted license" means the license issued to any person to operate a motor vehicle subject to conditions or restrictions imposed by the registrar of motor vehicles.

"Commercial driver's license" means the license issued to a

person under Chapter 4506. of the Revised Code to operate a commercial motor vehicle.

"Commercial motor vehicle" has the same meaning as in section 4506.01 of the Revised Code.

"Motorized bicycle license" means the license issued under section 4511.521 of the Revised Code to any person to operate a motorized bicycle including a "probationary motorized bicycle license."

"Probationary motorized bicycle license" means the license issued under section 4511.521 of the Revised Code to any person between fourteen and sixteen years of age to operate a motorized bicycle.

"Identification card" means a card issued under sections 4507.50 and 4507.51 of the Revised Code.

"Resident" means a person who, in accordance with standards prescribed in rules adopted by the registrar, resides in this state on a permanent basis.

"Temporary resident" means a person who, in accordance with standards prescribed in rules adopted by the registrar, resides in this state on a temporary basis.

(B) In the administration of this chapter and Chapter 4506. of the Revised Code, the registrar has the same authority as is conferred on the registrar by section 4501.02 of the Revised Code. Any act of an authorized deputy registrar of motor vehicles under direction of the registrar is deemed the act of the registrar.

To carry out this chapter, the registrar shall appoint such deputy registrars in each county as are necessary.

The registrar also shall provide at each place where an application for a driver's or commercial driver's license or identification card may be made the necessary equipment to take a

color photograph of the applicant for such license or card as required under section 4506.11 or 4507.06 of the Revised Code, and to conduct the vision screenings required by section 4507.12 of the Revised Code, and equipment to laminate licenses, motorized bicycle licenses, and identification cards as required by sections 4507.13, 4507.52, and 4511.521 of the Revised Code.

The registrar shall assign one or more deputy registrars to any driver's license examining station operated under the supervision of the ~~state highway patrol~~ director of public safety, whenever the registrar considers such assignment possible. Space shall be provided in the driver's license examining station for any such deputy registrar so assigned. The deputy registrars shall not exercise the powers conferred by such sections upon the registrar, unless they are specifically authorized to exercise such powers by such sections.

(C) No agent for any insurance company, writing automobile insurance, shall be appointed deputy registrar, and any such appointment is void. No deputy registrar shall in any manner solicit any form of automobile insurance, nor in any manner advise, suggest, or influence any licensee or applicant for license for or against any kind or type of automobile insurance, insurance company, or agent, nor have the deputy registrar's office directly connected with the office of any automobile insurance agent, nor impart any information furnished by any applicant for a license or identification card to any person, except the registrar. This division shall not apply to any nonprofit corporation appointed deputy registrar.

(D) The registrar shall immediately remove a deputy registrar who violates the requirements of this chapter.

(E) The registrar shall periodically solicit bids and enter into a contract for the provision of laminating equipment and laminating materials to the registrar and all deputy registrars.

The registrar shall not consider any bid that does not provide for the supplying of both laminating equipment and laminating materials. The laminating materials selected shall contain a security feature so that any tampering with the laminating material covering a license or identification card is readily apparent. In soliciting bids and entering into a contract for the provision of laminating equipment and laminating materials, the registrar shall observe all procedures required by law.

Sec. 4507.011. (A) Each deputy registrar assigned to a driver's license examining station by the registrar of motor vehicles as provided in section 4507.01 of the Revised Code shall remit to the ~~superintendent~~ director of ~~the state highway patrol~~ public safety a rental fee equal to the percentage of space occupied by the deputy registrar in the driver's license examining station multiplied by the rental fee paid for the entire driver's license examining station plus a pro rata share of all utility costs. All such moneys received by the ~~superintendent~~ director shall be deposited in the state treasury to the credit of the registrar rental fund, which is hereby created. The moneys in the fund shall be used by the ~~state highway patrol~~ department of public safety only to pay the rent and expenses of the driver's license examining stations. All investment earnings of the fund shall be credited to the fund.

(B) Each deputy registrar assigned to a bureau of motor vehicles' location shall reimburse the registrar a monthly building rental fee, including applicable utility charges. All such moneys received by the registrar shall be deposited into the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4507.12. (A) Except as provided in division (C) of section 4507.10 of the Revised Code, each person applying for the

renewal of a driver's license shall submit to a screening of the person's vision before the license may be renewed. The vision screening shall be conducted at the office of the deputy registrar receiving the application for license renewal.

(B) When the results of a vision screening given under division (A) of this section indicate that the vision of the person examined meets the standards required for licensing, the deputy registrar may renew the person's driver's license at that time.

(C) When the results of a vision screening given under division (A) of this section indicate that the vision of the person screened may not meet the standards required for licensing, the deputy registrar shall not renew the person's driver's license at that time but shall refer the person to a driver's license examiner appointed by the ~~superintendent~~ director of ~~the state highway patrol~~ public safety under section ~~5503.21~~ 5502.05 of the Revised Code for a further examination of the person's vision. When a person referred to a driver's license examiner by a deputy registrar does not meet the vision standards required for licensing, the driver's license examiner shall retain the person's operator's or chauffeur's license and shall immediately notify the registrar of motor vehicles of that fact. No driver's license shall be issued to any such person, until the person's vision is corrected to meet the standards required for licensing and the person passes the vision screening required by this section. Any person who operates a motor vehicle on a highway, or on any public or private property used by the public for purposes of vehicular travel or parking, during the time the person's driver's license is held by a driver's license examiner under this division, shall be deemed to be operating a motor vehicle in violation of division (A) of section 4510.12 of the Revised Code.

(D) The registrar shall adopt rules and shall provide any forms necessary to properly conduct vision screenings at the office of a deputy registrar.

(E) No person conducting vision screenings under this section shall be personally liable for damages for injury or loss to persons or property and for death caused by the operation of a motor vehicle by any person whose driver's license was renewed by the deputy registrar under division (B) of this section.

Sec. 4507.51. (A)(1) Every application for an identification card or duplicate shall be made on a form furnished by the registrar of motor vehicles, shall be signed by the applicant, and by the applicant's parent or guardian if the applicant is under eighteen years of age, and shall contain the following information pertaining to the applicant: name, date of birth, sex, general description including the applicant's height, weight, hair color, and eye color, address, and social security number. The application also shall state whether an applicant wishes to certify willingness to make an anatomical gift under section 2108.05 of the Revised Code and shall include information about the requirements of sections 2108.01 to 2108.29 of the Revised Code that apply to persons who are less than eighteen years of age. The statement regarding willingness to make such a donation shall be given no consideration in the decision of whether to issue an identification card. Each applicant shall be photographed in color at the time of making application.

(2)(a) The application also shall state whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the

applicant has executed either type of instrument, whether the applicant wishes the identification card issued to indicate that the applicant has executed the instrument.

(b) On and after October 7, 2009, the application also shall state whether the applicant is a veteran, active duty, or reservist of the armed forces of the United States and, if the applicant is such, whether the applicant wishes the identification card issued to indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States by a military designation on the identification card.

(3) The registrar or deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any person who applies for an identification card or duplicate if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant an identification card or duplicate.

(B) The application for an identification card or duplicate shall be filed in the office of the registrar or deputy registrar. Each applicant shall present documentary evidence as required by the registrar of the applicant's age and identity, and the applicant shall swear that all information given is true. An identification card issued by the department of rehabilitation and correction under section 5120.59 of the Revised Code or an identification card issued by the department of youth services under section 5139.511 of the Revised Code shall be sufficient documentary evidence under this division upon verification of the applicant's social security number by the registrar or a deputy registrar. Upon issuing an identification card under this section for a person who has been issued an identification card under section 5120.59 or section 5139.511 of the Revised Code, the registrar or deputy registrar shall destroy the identification

card issued under section 5120.59 or section 5139.511 of the Revised Code.

All applications for an identification card or duplicate shall be filed in duplicate, and if submitted to a deputy registrar, a copy shall be forwarded to the registrar. The registrar shall prescribe rules for the manner in which a deputy registrar is to file and maintain applications and other records. The registrar shall maintain a suitable, indexed record of all applications denied and cards issued or canceled.

(C) In addition to any other information it contains, on and after the date that is fifteen months after ~~the effective date of this amendment~~ April 7, 2009, the form furnished by the registrar of motor vehicles for an application for an identification card or duplicate shall inform applicants that the applicant must present a copy of the applicant's DD-214 or an equivalent document in order to qualify to have the card or duplicate indicate that the applicant is an honorably discharged veteran of the armed forces of the United States based on a request made pursuant to division (A)(2)(b) of this section.

Sec. 4508.02. (A)(1) The director of public safety, subject to Chapter 119. of the Revised Code, shall adopt and prescribe such rules concerning the administration and enforcement of this chapter as are necessary to protect the public. The director shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's licenses.

(2) The director shall adopt rules governing online driver education courses that may be completed via the internet to satisfy the classroom instruction under division (C) of this section. The rules shall do all of the following:

(a) Establish standards that an online driver training enterprise must satisfy to be licensed to offer an online driver

education course via the internet, including, at a minimum, proven expertise in providing driver education and an acceptable infrastructure capable of providing secure online driver education in accord with advances in internet technology. The rules shall allow an online driver training enterprise to be affiliated with a licensed driver training school offering in-person classroom instruction, but shall not require such an affiliation.

(b) Establish content requirements that an online driver education course must satisfy to be approved as equivalent to twenty-four hours of in-person classroom instruction;

(c) Establish attendance standards, including a maximum number of course hours that may be completed in a twenty-four-hour period;

(d) Allow an enrolled applicant to begin the required eight hours of actual behind-the-wheel instruction upon completing at least two hours of course instruction and being issued a certificate of enrollment by a licensed online driver training enterprise;

(e) Establish any other requirements necessary to regulate online driver education.

(B) The director shall administer and enforce this chapter.

(C) The rules shall require twenty-four hours of in-person classroom instruction or completion of an approved, equivalent online driver education course offered via the internet by a licensed online driver training enterprise, and eight hours of actual behind-the-wheel instruction conducted on public streets and highways of this state for all beginning drivers of noncommercial motor vehicles who are under age eighteen.

(D) The rules shall state the minimum hours for classroom and behind-the-wheel instruction required for beginning drivers of commercial trucks, commercial cars, buses, and commercial

tractors, trailers, and ~~semi-trailers~~ semitrailers.

(E)(1) The department of public safety may charge a fee to each online driver training enterprise in an amount sufficient to pay the actual expenses the department incurs in the regulation of online driver education courses.

(2) The department shall supply to each licensed online driver training enterprise certificates to be used for certifying an applicant's enrollment in an approved online driver education course and a separate certificate to be issued upon successful completion of an approved online driver education course. The certificates shall be numbered serially. The department may charge a fee to each online driver training enterprise per certificate supplied to pay the actual expenses the department incurs in supplying the certificates.

Sec. 4510.037. (A) When the registrar of motor vehicles determines that the total points charged against any person under section 4510.036 of the Revised Code exceed five, the registrar shall send a warning letter to the person at the person's last known address by regular mail. The warning letter shall list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and outline the suspension provisions of this section.

(B) When the registrar determines that the total points charged against any person under section 4510.036 of the Revised Code within any two-year period beginning on the date of the first conviction within the two-year period is equal to twelve or more, the registrar shall send a written notice to the person at the person's last known address by regular mail. The notice shall list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and state that, because the total number of points charged against the

person within the applicable two-year period is equal to twelve or more, the registrar is imposing a class D suspension of the person's driver's or commercial driver's license or permit or nonresident operating privileges for the period of time specified in division (B)(4) of section 4510.02 of the Revised Code. The notice also shall state that the suspension is effective on the twentieth day after the mailing of the notice, unless the person files a petition appealing the determination and suspension in the municipal court, county court, or, if the person is under the age of eighteen, the juvenile division of the court of common pleas in whose jurisdiction the person resides or, if the person is not a resident of this state, in the Franklin county municipal court or juvenile division of the Franklin county court of common pleas. By filing the appeal of the determination and suspension, the person agrees to pay the cost of the proceedings in the appeal of the determination and suspension and alleges that the person can show cause why the person's driver's or commercial driver's license or permit or nonresident operating privileges should not be suspended.

(C)(1) Any person against whom at least two but less than twelve points have been charged under section 4510.036 of the Revised Code may enroll in a course of remedial driving instruction that is approved by the director of public safety. Upon the person's completion of an approved course of remedial driving instruction, the person may apply to the registrar on a form prescribed by the registrar for a credit of two points on the person's driving record. Upon receipt of the application and proof of completion of the approved remedial driving course, the registrar shall approve the two-point credit. The registrar shall not approve any credits for a person who completes an approved course of remedial driving instruction pursuant to a judge's order under section 4510.02 of the Revised Code.

(2) In any three-year period, the registrar shall approve only one two-point credit on a person's driving record under division (C)(1) of this section. The registrar shall approve not more than five two-point credits on a person's driving record under division (C)(1) of this section during that person's lifetime.

(D) When a judge of a court of record suspends a person's driver's or commercial driver's license or permit or nonresident operating privilege and charges points against the person under section 4510.036 of the Revised Code for the offense that resulted in the suspension, the registrar shall credit that period of suspension against the time of any subsequent suspension imposed under this section for which those points were used to impose the subsequent suspension. When a United States district court that has jurisdiction within this state suspends a person's driver's or commercial driver's license or permit or nonresident operating privileges pursuant to the "Assimilative Crimes Act," 102 Stat. 4381 (1988), 18 U.S.C.A. 13, as amended, the district court prepares an abstract pursuant to section 4510.031 of the Revised Code, and the district court charges points against the person under section 4510.036 of the Revised Code for the offense that resulted in the suspension, the registrar shall credit the period of suspension imposed by the district court against the time of any subsequent suspension imposed under this section for which the points were used to impose the subsequent suspension.

(E) The registrar, upon the written request of a licensee who files a petition under division (B) of this section, shall furnish the licensee a certified copy of the registrar's record of the convictions and bond forfeitures of the person. This record shall include the name, address, and date of birth of the licensee; the name of the court in which each conviction or bail forfeiture took place; the nature of the offense that was the basis of the

conviction or bond forfeiture; and any other information that the registrar considers necessary. If the record indicates that twelve points or more have been charged against the person within a two-year period, it is prima-facie evidence that the person is a repeat traffic offender, and the registrar shall suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege pursuant to division (B) of this section.

In hearing the petition and determining whether the person filing the petition has shown cause why the person's driver's or commercial driver's license or permit or nonresident operating privilege should not be suspended, the court shall decide the issue on the record certified by the registrar and any additional relevant, competent, and material evidence that either the registrar or the person whose license is sought to be suspended submits.

(F) If a petition is filed under division (B) of this section in a county court, the prosecuting attorney of the county in which the case is pending shall represent the registrar in the proceedings, except that, if the petitioner resides in a municipal corporation within the jurisdiction of the county court, the city director of law, village solicitor, or other chief legal officer of the municipal corporation shall represent the registrar in the proceedings. If a petition is filed under division (B) of this section in a municipal court, the registrar shall be represented in the resulting proceedings as provided in section 1901.34 of the Revised Code.

(G) If the court determines from the evidence submitted that a person who filed a petition under division (B) of this section has failed to show cause why the person's driver's or commercial driver's license or permit or nonresident operating privileges should not be suspended, the court shall assess against the person

the cost of the proceedings in the appeal of the determination and suspension and shall impose the applicable suspension under this section or suspend all or a portion of the suspension and impose any conditions upon the person that the court considers proper or impose upon the person a community control sanction pursuant to section 2929.15 or 2929.25 of the Revised Code. If the court determines from the evidence submitted that a person who filed a petition under division (B) of this section has shown cause why the person's driver's or commercial driver's license or permit or nonresident operating privileges should not be suspended, the costs of the appeal proceeding shall be paid out of the county treasury of the county in which the proceedings were held.

(H) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended under this section is not entitled to apply for or receive a new driver's or commercial driver's license or permit or to request or be granted nonresident operating privileges during the effective period of the suspension.

(I) Upon the termination of any suspension or other penalty imposed under this section involving the surrender of license or permit and upon the request of the person whose license or permit was suspended or surrendered, the registrar shall return the license or permit to the person upon determining that the person has complied with all provisions of section 4510.038 of the Revised Code or, if the registrar destroyed the license or permit pursuant to section 4510.52 of the Revised Code, shall reissue the person's license or permit.

(J) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a

misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this division.

(K) The registrar, in accordance with specific statutory authority, may suspend the privilege of driving a motor vehicle on the public roads and highways of this state that is granted to nonresidents by section 4507.04 of the Revised Code.

(L) ~~Any~~ (1) Except as provided in division (L)(2) of this section, any course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person~~. The~~ and the director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet.

(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing or the internet. In accordance with division (C) of this section, upon receiving an application with a certificate or other proof of completion of a course approved under this division, the registrar shall approve the two-point reduction.

Sec. 4510.038. (A) Any person whose driver's or commercial driver's license or permit is suspended or who is granted limited driving privileges under section 4510.037, under division (H) of section 4511.19, or under section 4510.07 of the Revised Code for a violation of a municipal ordinance that is substantially equivalent to division (B) of section 4511.19 of the Revised Code is not eligible to retain the license, or to have the driving privileges reinstated, until each of the following has occurred:

(1) The person successfully completes a course of remedial

driving instruction approved by the director of public safety. A minimum of twenty-five per cent of the number of hours of instruction included in the course shall be devoted to instruction on driver attitude.

The course also shall devote a number of hours to instruction in the area of alcohol and drugs and the operation of vehicles. The instruction shall include, but not be limited to, a review of the laws governing the operation of a vehicle while under the influence of alcohol, drugs, or a combination of them, the dangers of operating a vehicle while under the influence of alcohol, drugs, or a combination of them, and other information relating to the operation of vehicles and the consumption of alcoholic beverages and use of drugs. The director, in consultation with the director of alcohol and drug addiction services, shall prescribe the content of the instruction. The number of hours devoted to the area of alcohol and drugs and the operation of vehicles shall comprise a minimum of twenty-five per cent of the number of hours of instruction included in the course.

(2) The person is examined in the manner provided for in section 4507.20 of the Revised Code, and found by the registrar of motor vehicles to be qualified to operate a motor vehicle;

(3) The person gives and maintains proof of financial responsibility, in accordance with section 4509.45 of the Revised Code.

(B) ~~Any~~ (1) Except as provided in division (B)(2) of this section, any course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person~~. The~~ and the director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet.

(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing or the internet.

Sec. 4511.191. (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was

operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood

serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar of motor vehicles and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods

applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the

Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine

contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division

(C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the

arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise

subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the registrar or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. Money credited to the fund under this section shall be used for purposes identified in the comprehensive statewide alcohol and drug addiction services plan developed under section 3793.04 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and

the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (H) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any

other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services ~~grants~~ fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or

division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the registrar or an eligible deputy registrar, only one reinstatement fee of four hundred seventy-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(5) In addition to the reinstatement fee under this section, if the person pays the reinstatement fee to a deputy registrar, the deputy registrar shall collect a service fee of ten dollars to

compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee, to the registrar in the manner the registrar shall determine.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal

indigent drivers alcohol treatment fund, all portions of additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be

deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or

found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of the assessment or the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to obtain an assessment or attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment

fund, or municipal indigent drivers alcohol treatment fund in the following manners:

(a) If the source of the moneys was an appropriation of the general assembly, a portion of a fee that was paid under division (F) of this section, a portion of a fine that was specified for deposit into the fund by section 4511.193 of the Revised Code, or a portion of a fine that was paid for a violation of section 4511.19 of the Revised Code or of a provision contained in Chapter 4510. of the Revised Code that was required to be deposited into the fund, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device;

(b) If the source of the moneys was a portion of an additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or

the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H)(3) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(5) For the purpose of determining as described in division (F)(2)(c) of this section whether an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program or whether an alleged offender or

delinquent child is unable to pay the costs specified in division (H)(4) of this section, the court shall use the indigent client eligibility guidelines and the standards of indigency established by the state public defender to make the determination.

(6) The court shall identify and refer any alcohol and drug addiction program that is not certified under section 3793.06 of the Revised Code and that is interested in receiving amounts from the surplus in the fund declared under division (H)(4) of this section to the department of alcohol and drug addiction services in order for the program to become a certified alcohol and drug addiction program. The department shall keep a record of applicant referrals received pursuant to this division and shall submit a report on the referrals each year to the general assembly. If a program interested in becoming certified makes an application to become certified pursuant to section 3793.06 of the Revised Code, the program is eligible to receive surplus funds as long as the application is pending with the department. The department of alcohol and drug addiction services must offer technical assistance to the applicant. If the interested program withdraws the certification application, the department must notify the court, and the court shall not provide the interested program with any further surplus funds.

(7)(a) Each alcohol and drug addiction services board and board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code shall submit to the department of alcohol and drug addiction services an annual report for each indigent drivers alcohol treatment fund in that board's area.

(b) The report, which shall be submitted not later than sixty days after the end of the state fiscal year, shall provide the total payment that was made from the fund, including the number of indigent consumers that received treatment services and the number

of indigent consumers that received an alcohol monitoring device. The report shall identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The report shall include the fiscal year balance of each indigent drivers alcohol treatment fund located in that board's area. In the event that a surplus is declared in the fund pursuant to division (H)(4) of this section, the report also shall provide the total payment that was made from the surplus moneys and identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The department may require additional information necessary to complete the comprehensive statewide alcohol and drug addiction services plan as required by section 3793.04 of the Revised Code.

(c) If a board is unable to obtain adequate information to develop the report to submit to the department for a particular indigent drivers alcohol treatment fund, the board shall submit a report detailing the effort made in obtaining the information.

(I)(1) Each county shall establish an indigent drivers interlock and alcohol monitoring fund and a juvenile indigent drivers interlock and alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers interlock and alcohol monitoring fund. All revenue that the general assembly appropriates to the indigent drivers interlock and alcohol monitoring fund for transfer to a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund, all portions of license reinstatement fees that are paid under division (F)(2) of this section and that are credited under that division to the indigent drivers interlock and alcohol monitoring fund in the state treasury, and all portions of fines that are paid under division (G) of section 4511.19 of the

Revised Code and that are credited by division (G)(5)(e) of that section to the indigent drivers interlock and alcohol monitoring fund in the state treasury shall be deposited in the appropriate fund in accordance with division (I)(2) of this section.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that portion of the fine paid under division (G) of section 4511.19 of the Revised Code and that is credited under either division to the indigent drivers interlock and alcohol monitoring fund shall be deposited into a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund as follows:

(a) If the fee or fine is paid by a person who was charged in a county court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county indigent drivers interlock and alcohol monitoring fund under the control of that court.

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

Sec. 4511.78. (A) As used in this section:

(1) "Mass transit system" means any county transit system,

regional transit authority, regional transit commission, municipally owned transportation system, mass transit company operating exclusively within the territorial limits of a municipal corporation, or within such limits and the territorial limits of municipal corporations immediately contiguous to such municipal corporation, and any common passenger carrier ~~certified by the public utilities commission~~, that provides transportation for children to or from a school session or a school function.

(2) "Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons, but does not mean any school bus as defined in section 4511.01 of the Revised Code.

(B) Whenever a mass transit system transports children to or from a school session or school function, the mass transit system shall provide for:

(1) Periodic safety inspections of all buses used to provide transportation service. The inspections shall be based on rules adopted by the public utilities commission under Chapters 4921. and 4923. of the Revised Code to ensure the safety of operation of ~~motor transportation companies and private~~ motor carriers.

(2) The safety training of all drivers operating buses used to provide transportation service;

(3) The equipping of every bus with outside rear-view mirrors meeting the motor carrier regulations for bus equipment adopted by the federal highway administration. No exclusions from this requirement granted under the federal regulations shall be considered exclusions for the purposes of this division.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or

traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

Sec. 4511.98. The director of transportation may establish speed limits within construction zones that vary based on the type of work being conducted, the time of day, or any other criteria the director may consider appropriate. The director, board of county commissioners, or board of township trustees shall cause signs to be erected advising motorists that increased penalties apply for certain traffic violations occurring on streets or highways in a construction zone. The increased penalties shall be effective only when signs are erected in accordance with the guidelines and design specifications established by the director under section 5501.27 of the Revised Code, and when a violation occurs during hours of actual work within the construction zone.

Sec. 4513.18. (A) The director of transportation shall adopt standards and specifications applicable to headlights, clearance lights, identification, and other lights, on snow removal equipment when operated on the highways, and on vehicles operating under special permits pursuant to section 4513.34 of the Revised Code, in lieu of the lights otherwise required on motor vehicles. Such standards and specifications may permit the use of flashing colored lights, other than blue or red in color, for purposes of identification on snow removal equipment, and oversize vehicles when in service upon the highways. The standards and specifications for lights referred to in this section shall correlate with and, so far as possible, conform with those approved by the American association of state highway officials.

It is unlawful to operate snow removal equipment on a highway

unless the lights thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

(B) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 4513.263. (A) As used in this section and in section 4513.99 of the Revised Code:

(1) "Automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.

(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of transportation.

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71

of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for damages for breach of contract or another agreement between persons.

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to be secured in a child restraint device or booster seat. Division (B)(1) of this section does not apply to a person who is an employee of the United States postal service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (3) of this section

do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(E) All fines collected for violations of division (B) of this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit ~~as follows:~~

~~(1) Eight per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school programs that encourage seat safety belt use.~~

~~(2) Two per cent shall be deposited into the occupational licensing and regulatory fund created by section 4743.05 of the Revised Code.~~

~~(3) Thirty-six per cent, plus~~ into the state treasury to the credit of the trauma and emergency medical services fund, which is hereby created. In addition, sixty cents of each fee collected under sections 4501.34, 4503.26, 4505.14, 4506.08, ~~and~~ 4509.05, ~~plus on and after October 1, 2009, sixty cents of each fee collected under sections 4505.14~~ and 4519.63 of the Revised Code as specified in those sections, plus the portion of the driver's license reinstatement fee described in division (F)(2)(g) of section 4511.191 of the Revised Code, plus all fees collected under section 4765.11 of the Revised Code, plus all fines imposed under section 4765.55 of the Revised Code, plus the fees and other moneys specified in section 4766.05 of the Revised Code, and plus five per cent of fines and moneys arising from bail forfeitures as directed by section 5503.04 of the Revised Code, also shall be deposited into the trauma and emergency medical services fund~~, which is hereby created in the state treasury, and~~. All money deposited into the trauma and emergency medical services fund shall be used by the department of public safety for the administration and operation of the division of emergency medical services and the state board of emergency medical, fire, and transportation services, ~~except that the~~ and by the state board of emergency medical, fire, and transportation services to make grants, in accordance with section 4765.07 of the Revised Code and rules the board adopts under section 4765.11 of the Revised Code. The director of budget and management may transfer excess money from the trauma and emergency medical services fund to the state highway safety fund if the director of public safety determines that the amount of money in the trauma and emergency medical services fund exceeds the amount required to cover such costs incurred by the emergency medical services agency and the grants made by the state board of emergency medical, fire, and transportation services and requests the director of budget and management to make the transfer.

~~(4) Fifty-four per cent shall be deposited into the trauma and emergency medical services grants fund, which is hereby created in the state treasury, and shall be used by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and rules the board adopts under section 4765.11 of the Revised Code.~~

(F)(1) Subject to division (F)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(1) or (3) of this section or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(2) of this section shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But, the trier of fact may determine based on evidence admitted consistent with the Ohio Rules of Evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in section 2307.011 of the Revised Code, in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

(2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the

available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

(a) It seeks to recover damages for injury or death to the occupant.

(b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car.

(c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

(G)(1) Whoever violates division (B)(1) of this section shall be fined thirty dollars.

(2) Whoever violates division (B)(3) of this section shall be fined twenty dollars.

(3) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree.

Sec. 4513.50. As used in sections 4513.50 to 4513.53 of the Revised Code:

(A)(1) "Bus" means any vehicle used for the transportation of passengers that meets at least one of the following:

(a) Was originally designed by the manufacturer to transport more than fifteen passengers, including the driver;

(b) Either the gross vehicle weight rating or the gross vehicle weight exceeds ten thousand pounds.

(2) "Bus" does not include a church bus as defined in section 4503.07 of the Revised Code or a school bus unless the church bus or school bus is used in the transportation of passengers ~~for hire~~ by a motor ~~transportation company or a common~~ carrier ~~by motor vehicle or by a private motor carrier or contract carrier by motor vehicle~~.

(3) "Bus" also does not include any of the following:

(a) Any vehicle operated exclusively on a rail or rails;

(b) A trolley bus operated by electric power derived from a fixed overhead wire furnishing local passenger transportation similar to street-railway service;

(c) Vehicles owned or leased by government agencies or political subdivisions.

(B)~~(1)~~ "Motor ~~transportation company" and "common~~ carrier ~~by motor vehicle~~" ~~have~~ has the same ~~meanings~~ meaning as in section ~~4921.02~~ 4923.01 of the Revised Code.

~~(2) "Private motor carrier" and "contract carrier by motor vehicle" have the same meanings as in section 4923.02 of the Revised Code.~~

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the Revised Code:

(A) "Buyer" means an individual who is solicited to purchase or who purchases the services of a credit services organization for purposes other than obtaining a business loan as described in division (B)(6) of section 1343.01 of the Revised Code.

(B) "Consumer reporting agency" has the same meaning as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended.

(C)(1) "Credit services organization" means any person that, in return for the payment of money or other valuable consideration readily convertible into money for the following services, sells, provides, or performs, or represents that the person can or will sell, provide, or perform, one or more of the following services:

(a) Improving a buyer's credit record, history, or rating;

(b) Obtaining an extension of credit by others for a buyer;

(c) Providing advice or assistance to a buyer in connection with division (C)(1)(a) or (b) of this section;

(d) Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating;

(e) Altering the buyer's identification to prevent the display of the buyer's credit record, history, or rating.

(2) "Credit services organization" does not include any of the following:

(a) A person that makes or collects loans, to the extent these activities are subject to licensure or registration by this state;

(b) A mortgage broker, as defined in section 1322.01 of the Revised Code, that holds a valid certificate of registration under sections 1322.01 to 1322.12 of the Revised Code;

(c) A lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended;

(d) A bank, savings bank, or savings and loan association, or a subsidiary or an affiliate of a bank, savings bank, or savings

and loan association. For purposes of division (C)(2)(d) of this section, "affiliate" has the same meaning as in division (A) of section 1101.01 of the Revised Code and "bank," as used in division (A) of section 1101.01 of the Revised Code, is deemed to include a savings bank or savings and loan association.

(e) A credit union organized and qualified under Chapter 1733. of the Revised Code or the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, as amended;

(f) A budget and debt counseling service, as defined in division (D) of section 2716.03 of the Revised Code, provided that the service is a nonprofit organization exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is in compliance with Chapter 4710. of the Revised Code;

(g) A consumer reporting agency that is in substantial compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended.

(h) A mortgage banker;

(i) Any political subdivision, or any governmental or other public entity, corporation, or agency, in or of the United States or any state of the United States;

(j) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code;

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. of the Revised Code acting within the scope and authority of that license or a motor vehicle auction owner licensed pursuant to Chapters 4517. and 4707. of the Revised Code acting within the scope and authority of that license;

(l) An attorney at law admitted to the practice of law in

this state who offers, provides, or performs a legal service that is privileged by reason of the attorney-client relationship, provided that the service is not a service described in division (C)(1)(b) or (e) of this section.

(D) "Extension of credit" means the right to defer payment of debt, or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes. "Extension of credit" does not include a mortgage.

(E) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property.

(F) "Mortgage banker" means any person that makes, services, or buys and sells mortgage loans and is approved by the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, or the federal home loan mortgage corporation.

(G) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.

Sec. 4723.481. This section establishes standards and conditions regarding the authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe drugs and therapeutic devices under a certificate to prescribe issued under section 4723.481 of the Revised Code.

(A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not prescribe any drug or therapeutic device that is not included in the types of drugs and devices listed on the formulary established in rules adopted under section 4723.50 of the Revised Code.

(B) The prescriptive authority of a clinical nurse

specialist, certified nurse-midwife, or certified nurse practitioner shall not exceed the prescriptive authority of the collaborating physician or podiatrist, including the collaborating physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code.

(C)(1) Except as provided in division (C)(2) or (3) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may prescribe to a patient a schedule II controlled substance only if all of the following are the case:

(a) The patient has a terminal condition, as defined in section 2133.01 of the Revised Code.

(b) The collaborating physician of the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner initially prescribed the substance for the patient.

(c) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four hour period.

(2) The restrictions on prescriptive authority in division (C)(1) of this section do not apply if a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issues the prescription to the patient from any of the following locations:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(c) A health care facility operated by the department of mental health or the department of developmental disabilities;

(d) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;

(f) A hospice care program, as defined in section 3712.01 of the Revised Code;

(g) A community mental health agency, as defined in section 5122.01 of the Revised Code;

(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;

(i) A freestanding birthing center, as defined in section 3702.51 of the Revised Code;

(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;

(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;

(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site.

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C)(2) of this section.

(D) A pharmacist who acts in good faith reliance on a prescription issued by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner under division (C)(2) of this section is not liable for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action by the state board of pharmacy under Chapter 4729. of the Revised Code.

(E) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may personally furnish to a patient a sample of any drug or therapeutic device included in the types of drugs and devices listed on the formulary, except that all of the following conditions apply:

(1) The amount of the sample furnished shall not exceed a seventy-two-hour supply, except when the minimum available quantity of the sample is packaged in an amount that is greater than a seventy-two-hour supply, in which case the packaged amount may be furnished.

(2) No charge may be imposed for the sample or for furnishing it.

(3) Samples of controlled substances may not be personally furnished.

(F) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may personally furnish to a patient a complete or partial supply of a drug or therapeutic device included in the types of drugs and devices listed on the

formulary, except that all of the following conditions apply:

(1) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall personally furnish only antibiotics, antifungals, scabicides, contraceptives, prenatal vitamins, antihypertensives, drugs and devices used in the treatment of diabetes, drugs and devices used in the treatment of asthma, and drugs used in the treatment of dyslipidemia.

(2) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not furnish the drugs and devices in locations other than a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code, a federally funded comprehensive primary care clinic, or a nonprofit health care clinic or program.

(3) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall comply with all safety standards for personally furnishing supplies of drugs and devices, as established in rules adopted under section 4723.50 of the Revised Code.

Sec. 4730.42. (A) In granting physician-delegated prescriptive authority to a particular physician assistant who holds a certificate to prescribe issued under this chapter, the supervising physician is subject to all of the following:

(1) The supervising physician shall not grant physician-delegated prescriptive authority for any drug or therapeutic device that is not listed on the formulary established in rules adopted under section 4730.39 of the Revised Code as a drug or therapeutic device that may be included in the physician-delegated prescriptive authority granted to a physician assistant.

(2) The supervising physician shall not grant physician-delegated prescriptive authority for any drug or device that may be used to perform or induce an abortion.

(3) The supervising physician shall not grant physician-delegated prescriptive authority in a manner that exceeds the supervising physician's prescriptive authority, including the physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code.

(4) The supervising physician shall supervise the physician assistant in accordance with all of the following:

(a) The supervision requirements specified in section 4730.21 of the Revised Code and, in the case of supervision provided during a provisional period of physician-delegated prescriptive authority, the supervision requirements specified in section 4730.45 of the Revised Code;

(b) The physician supervisory plan approved for the supervising physician or the policies of the health care facility in which the physician and physician assistant are practicing;

(c) The supervision agreement approved under section 4730.19 of the Revised Code that applies to the supervising physician and the physician assistant.

(B)(1) The supervising physician of a physician assistant may place conditions on the physician-delegated prescriptive authority granted to the physician assistant. If conditions are placed on that authority, the supervising physician shall maintain a written record of the conditions and make the record available to the state medical board on request.

(2) The conditions that a supervising physician may place on the physician-delegated prescriptive authority granted to a physician assistant include the following:

(a) Identification by class and specific generic nomenclature of drugs and therapeutic devices that the physician chooses not to permit the physician assistant to prescribe;

(b) Limitations on the dosage units or refills that the physician assistant is authorized to prescribe;

(c) Specification of circumstances under which the physician assistant is required to refer patients to the supervising physician or another physician when exercising physician-delegated prescriptive authority;

(d) Responsibilities to be fulfilled by the physician in supervising the physician assistant that are not otherwise specified in the physician supervisory plan or otherwise required by this chapter.

Sec. 4731.052. (A) As used in this section:

(1) ~~"Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.~~

~~(2)~~ "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

(2) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(3) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

(B) The state medical board shall adopt rules in accordance

with Chapter 119. of the Revised Code that establish standards and procedures to be followed by physicians in the diagnosis and treatment of chronic pain, including standards for a physician's consultation with one or more other physicians who specialize in the treatment of the area, system, or organ of the body perceived as the source of pain and managing chronic pain by prescribing, personally furnishing, or administering ~~dangerous drugs in amounts or combinations that may not be appropriate when treating other medical conditions. In developing the rules, the board shall consult with and permit review by physicians who are experienced in the diagnosis and treatment of chronic pain~~ controlled substances or products containing tramadol.

(C) When a physician diagnoses ~~an individual~~ a patient as having chronic pain, the physician may, subject to division (D) of this section, treat the pain by managing it with ~~dangerous drugs in amounts or combinations that may not be appropriate when treating other medical conditions~~ controlled substances and products containing tramadol. The physician's diagnosis and treatment decisions shall be made ~~after having the individual~~ according to accepted and prevailing standards for medical care. For the purpose of assisting with the diagnosis of chronic pain, the physician shall obtain and review all available medical records or detailed written summaries of the patient's treatment for chronic pain or the condition causing the chronic pain. It is recommended that the physician also consider having the patient evaluated by one or more other physicians who specialize in the treatment of the area, system, or organ of the body perceived as the source of the pain. ~~The physician's diagnosis and treatment decisions shall be made according to accepted and prevailing standards for medical care. The~~

(D) For each patient a physician diagnoses as having chronic pain, the physician shall maintain a written record of all of the

following:

(1) Medical history and physical examination of the ~~individual~~ patient;

(2) The diagnosis of chronic pain, including signs, symptoms, and causes;

(3) The plan of treatment proposed, the patient's response to treatment, and any modification to the plan of treatment~~;~~, including all of the following:

(a) Documentation that other medically reasonable treatments for relief of the patient's chronic pain have been offered or attempted without adequate or reasonable success;

(b) Periodic assessment and documentation of the patient's functional status, including the ability to engage in work or other purposeful activities, the pain intensity and its interference with activities of daily living, quality of family life and social activities, and physical activity of the patient;

(c) Periodic assessment and documentation of the patient's progress toward treatment objectives, including the intended role of controlled substances or products containing tramadol within the overall plan of treatment;

(d) Periodic assessment and documentation for indicators of possible addiction, drug abuse, or drug diversion;

(e) Notation of any adverse drug effects.

(4) The dates on which ~~dangerous drugs~~ controlled substances or products containing tramadol were prescribed, furnished, or administered, the name and address of the ~~individual~~ patient to or for whom the ~~dangerous drugs~~ controlled substances or products containing tramadol were prescribed, ~~dispensed~~ furnished, or administered, and the amounts and dosage forms for the ~~dangerous drugs~~ controlled substances or products containing tramadol

prescribed, furnished, or administered;

(5) A copy of ~~the~~ any record or report made by ~~the~~ another physician ~~or the physician to whom referral for evaluation was made under this division~~ that was used or consulted for the purpose of diagnosing the patient's chronic pain or treating the patient for chronic pain.

(E) A physician shall not prescribe, personally furnish, or administer to a patient a controlled substance or product containing tramadol without taking into account the potential for abuse of the controlled substance or product, the possibility the controlled substance or product may lead to dependence, the possibility the patient will obtain the controlled substance or product for a nontherapeutic use or distribute it to other persons, and the potential existence of an illicit market for the controlled substance or product. In addition, the physician shall address with the patient the risks associated with protracted treatment with controlled substances or products containing tramadol, including informing the patient of the potential for dependence, tolerance, and addiction and the clinical or monitoring tools the physician may use if signs of addiction, drug abuse, or drug diversion are present.

~~(D)~~(F) A physician who treats chronic pain by managing it with ~~dangerous drugs~~ controlled substances or products containing tramadol is not subject to disciplinary action by the board under section 4731.22 of the Revised Code solely because the physician treated the chronic pain with ~~dangerous drugs~~ controlled substances or products containing tramadol.

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud during the administration of the examination

for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other

than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code,

violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and

a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a

conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of section 3701.79 of the Revised Code or of any abortion rule adopted by the ~~public~~ director of health ~~council~~ pursuant to section 3701.341 of the Revised Code;

(22) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or

termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (N) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;

(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;

(37) Assisting suicide as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;

(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;

(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;

(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;

(43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

~~(41)~~(44) Failure to comply with the requirements of section 2919.171 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than

six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice.

(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board

has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(4) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in

accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's certificate to practice without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (B) of this section;

(2) That the individual's continued practice presents a

danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents.

Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.

(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, or the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall do whichever of the following is

applicable:

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the board shall enter an order suspending the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's certificate to practice.

(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's certificate to practice.

(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an

individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a certificate made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate of registration in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board.

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

An individual who participates in an individual educational program pursuant to this division shall pay the financial

obligations arising from that educational program.

Sec. 4731.297. (A) As used in this section:

(1) "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics partnering to do all of the following:

(a) Provide the highest quality of patient care from expert physicians;

(b) Conduct groundbreaking research leading to medical advancements for current and future patients;

(c) Provide medical education and graduate medical education to educate and train physicians.

(2) "Affiliated physician group practice" means a medical practice that consists of one or more physicians authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and that is affiliated with an academic medical center to further the objectives described in divisions (A)(1)(a) to (c) of this section.

(B) The state medical board shall issue, without examination, to an applicant who meets the requirements of this section a certificate of conceded eminence authorizing the practice of medicine and surgery or osteopathic medicine and surgery as part of the applicant's employment with an academic medical center in this state or affiliated physician group practice in this state.

(C) To be eligible for a certificate of conceded eminence, an applicant shall provide to the board all of the following:

(1) Evidence satisfactory to the board of all of the following:

(a) That the applicant is an international medical graduate who holds a medical degree from an educational institution listed

in the international medical education directory;

(b) That the applicant has been appointed to serve in this state as a full-time faculty member of a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American osteopathic association;

(c) That the applicant has accepted an offer of employment with an academic medical center in this state or affiliated physician group practice in this state;

(d) That the applicant holds a license in good standing in another state or country authorizing the practice of medicine and surgery or osteopathic medicine and surgery;

(e) That the applicant has unique talents and extraordinary abilities not generally found within the applicant's specialty, as demonstrated by satisfying at least four of the following:

(i) The applicant has achieved educational qualifications beyond those that are required for entry into the applicant's specialty, including advanced degrees, special certifications, or other academic credentials.

(ii) The applicant has written multiple articles in journals listed in the index medicus or an equivalent scholarly publication acceptable to the board.

(iii) The applicant has a sustained record of excellence in original research, at least some of which involves serving as the principal investigator or co-principal investigator for a research project.

(iv) The applicant has received nationally or internationally recognized prizes or awards for excellence.

(v) The applicant has participated in peer review in a field of specialization that is the same as or similar to the applicant's specialty.

(vi) The applicant has developed new procedures or treatments for complex medical problems that are recognized by peers as a significant advancement in the applicable field of medicine.

(vii) The applicant has held previous academic appointments with or been employed by a health care organization that has a distinguished national or international reputation.

(viii) The applicant has been the recipient of a national institutes of health or other competitive grant award.

(f) That the applicant has received staff membership or professional privileges from the academic medical center pursuant to standards adopted under section 3701.351 of the Revised Code on a basis that requires the applicant's medical education and graduate medical education to be at least equivalent to that of a physician educated and trained in the United States;

(g) That the applicant has sufficient written and oral English skills to communicate effectively and reliably with patients, their families, and other medical professionals;

(h) That the applicant will have professional liability insurance through the applicant's employment with the academic medical center or affiliated physician group practice.

(2) An affidavit from the applicant agreeing to practice only within the clinical setting of the academic medical center;

(3) Three letters of reference from distinguished experts in the applicant's specialty attesting to the unique capabilities of the applicant, at least one of which must be from outside the academic medical center or affiliated physician group practice;

(4) An affidavit from the dean of the medical school where the applicant has been appointed to serve as a faculty member stating that the applicant meets all of the requirements of division (C)(1) of this section and that the letters of reference

submitted under division (C)(3) of this section are from distinguished experts in the applicant's specialty, and documentation to support the affidavit;

(5) A fee of one thousand dollars for the certificate.

(D)(1) The holder of a certificate of conceded eminence may practice medicine and surgery or osteopathic medicine and surgery only within the clinical setting of the academic medical center with which the certificate holder is employed.

(2) A certificate holder may supervise medical students, physicians participating in graduate medical education, advanced practice nurses, and physician assistants when performing clinical services in the certificate holder's area of specialty.

(E) The board may revoke a certificate issued under this section on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(F) A certificate of conceded eminence is valid for the shorter of two years or the duration of the certificate holder's employment with the academic medical center or affiliated physician group practice. The certificate ceases to be valid if the holder resigns or is otherwise terminated from the academic medical center or affiliated physician group practice.

(G) A certificate of conceded eminence may be renewed for an additional two-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board and is eligible for renewal if the applicant does all of the following:

(1) Pays the renewal fee of one thousand dollars;

(2) Provides to the board an affidavit and supporting documentation from the academic medical center or affiliated physician group practice of all of the following:

(a) That the applicant's initial appointment to the medical faculty is still valid or has been renewed;

(b) That the applicant's clinical practice is consistent with the established standards in the field;

(c) That the applicant has demonstrated continued scholarly achievement;

(d) That the applicant has demonstrated continued professional achievement consistent with the academic medical center's requirements, established pursuant to standards adopted under section 3701.351 of the Revised Code, for physicians with staff membership or professional privileges with the academic medical center.

(3) Satisfies the same continuing medical education requirements set forth in section 4731.281 of the Revised Code that apply to a person who holds a certificate to practice medicine and surgery or osteopathic medicine and surgery issued under this chapter.

(4) Complies with any other requirements established by the board.

(H) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4735.01. As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for

a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such

purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter.

(I)(1) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the

intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(a) With reference to real estate situated in this state owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it;

(b) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a bona fide public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument that has been executed in good faith creating a like bona fide fiduciary obligation;

(c) As a public officer while performing the officer's official duties;

(d) As an attorney at law in the performance of the attorney's duties;

(e) As a person who engages in the brokering of the sale of business assets, not including the sale, lease, exchange, or assignment of any interest in real estate;

(f) As a person who engages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or assignment of any interest in real estate;

(g) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the

Revised Code.

(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I)(1)(a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section.

(J) "Disabled licensee" means a person licensed pursuant to this chapter who is under a severe disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter.

(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a

license under this chapter for a specified interval of time.

(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, ~~voluntary hold,~~ suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter.

(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation.

(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are a part of a larger building or parcel of real estate containing more than four residential units.

(S) "Out-of-state commercial broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation that is licensed to do business as a real estate broker in a jurisdiction other than Ohio.

(T) "Out-of-state commercial salesperson" includes any person affiliated with an out-of-state commercial broker who is not licensed as a real estate salesperson in Ohio.

(U) "Exclusive right to sell or lease listing agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker, the seller, or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement to anyone other than to specifically exempted persons or entities.

(V) "Exclusive agency agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

(W) "Exclusive purchaser agency agreement" means an agency agreement between a purchaser and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the purchaser in the purchase or lease of property;

(2) Provides the broker will be compensated in accordance with the terms specified in the exclusive agency agreement or if a property is purchased or leased by the purchaser during the term of the agency agreement unless the property is specifically exempted in the agency agreement.

The agreement may authorize the broker to receive compensation from the seller or the seller's agent and may provide

that the purchaser is not obligated to compensate the broker if the property is purchased or leased solely through the efforts of the purchaser.

(X) "Seller" means a party in a real estate transaction who is the potential transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.

(Y) ~~"Voluntary hold" means the license status in which a license is in the possession of the division of real estate and professional licensing for a period of not more than twelve months pursuant to section 4735.142 of the Revised Code, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.~~

~~(Z)~~ "Resigned" means the license status in which a license has been voluntarily and permanently surrendered to or is otherwise in the possession of the division of real estate and professional licensing, ~~is~~ may not be renewed or reactivated in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

~~(AA)~~(Z) "Bona fide" means made in good faith or without purpose of circumventing license law.

Sec. 4735.02. (A) Except as provided in section 4735.022 of the Revised Code, no person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or

corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, ~~placed on voluntary hold,~~ resigned, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the practice of law.

(B) No partnership, association, limited liability company, limited liability partnership, or corporation holding a real estate license shall employ as an officer, director, manager, or principal employee any person previously holding a license as a real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, whose license has been placed in inactive~~, voluntary hold,~~ or resigned status, or is suspended, or revoked and who has not thereafter reactivated the license or received a new license.

Sec. 4735.052. (A) Upon receipt of a written complaint or upon the superintendent's own motion, the superintendent may investigate any person that has allegedly violated section 4735.02 or 4735.25 of the Revised Code, except that the superintendent shall not initiate an investigation, pursuant to this section, of any person who held a ~~license on voluntary hold or a~~ suspended or inactive license under this chapter on the date of the alleged violation.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of section 4735.02 or 4735.25 of the Revised Code, within fourteen business days after that determination, the superintendent shall send the party who is the subject of the investigation, a written notice, by regular mail, that includes all of the following information:

(1) A description of the activity in which the party

allegedly is engaging or has engaged that is a violation of section 4735.02 or 4735.25 of the Revised Code;

(2) The applicable law allegedly violated;

(3) A statement informing the party that a hearing concerning the alleged violation will be held, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.

(C)(1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to this section, and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code.

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties <u>upon request</u>.

(4) The commission shall decide whether to impose disciplinary sanctions upon a party for a violation of section 4735.02 of the Revised Code. If the commission finds that a violation has occurred, the commission may assess a civil penalty, in an amount it determines, not to exceed one thousand dollars per

violation. Each day a violation occurs or continues is a separate violation. The commission shall determine the terms of payment. The commission shall maintain a record of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken.

(D) Civil penalties collected under this section shall be deposited in the real estate operating fund, which is created in the state treasury under section 4735.211 of the Revised Code.

(E) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the commission, the superintendent shall forward to the attorney general the name of the party and the amount of the civil penalty, for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the party also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(F) The superintendent may reserve the right to bring a civil action against a party that fails to pay a civil penalty for breach of contract in a court of competent jurisdiction.

Sec. 4735.10. (A)(1) The Ohio real estate commission may adopt reasonable rules in accordance with Chapter 119. of the Revised Code, necessary for implementing the provisions of this chapter relating, but not limited to, the following:

(a) The form and manner of filing applications for licensure;

(b) Times and form of examination for license;

(c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;

(d) Specifying the process by which a licensee may ~~place~~ resign the licensee's license ~~on voluntary hold or resigned~~

~~status~~;

(e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;

(f) Clarification of the activities that require a license under this chapter.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

(a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;

(b) A three-year license and a three-year license renewal system;

(c) Standards for the approval of the ten-hour postlicensure courses as required by division ~~(H)~~(G) of section 4735.07 and division (H) of section 4735.09 of the Revised Code, courses of study required for licenses, courses offered in preparation for license examinations, or courses required as continuing education for licenses.

(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(e) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses in an inactive status and to become salespersons under

section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

Sec. 4735.13. (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate

license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive~~, voluntary hold,~~ or resigned status or until the salesperson leaves the brokerage or is terminated. The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) ~~Any~~ A licensee shall notify the superintendent in writing within fifteen days of any of the following occurrences:

(1) The licensee is convicted of a felony.

(2) The licensee is convicted of a crime involving moral turpitude.

(3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination

in housing.

(4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code.

(5) ~~The licensee is found to have violated any municipal civil rights law pertaining to housing discrimination.~~

~~(6)~~ The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.

~~(7)~~(6) The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.

If a licensee fails to notify the superintendent within the required time, the superintendent immediately may suspend the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give notice to the superintendent, on a form prescribed by the superintendent, within thirty days after the change of location, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. One dollar

of the fee shall be credited to the real estate education and research fund.

A licensed real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation shall only act as a real estate broker for such partnership, association, limited liability company, limited liability partnership, or corporation.

(G) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's first birthday after discharge. The superintendent shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Sec. 4735.14. (A) Each license issued under this chapter,

shall be valid without further recommendation or examination until it is placed in an inactive~~, voluntary hold,~~ or resigned status, is revoked or suspended, or such license expires by operation of law.

(B) Except for a licensee who has placed the licensee's license ~~on voluntary hold or~~ in resigned status pursuant to section 4735.142 of the Revised Code, each licensed broker, brokerage, or salesperson shall file, on or before the date the Ohio real estate commission has adopted by rule for that licensee in accordance with division (A)(2)(f) of section 4735.10 of the Revised Code, a notice of renewal on a form prescribed by the superintendent of real estate. The notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the personal residence address of each broker or salesperson that is on file with the division. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the brokerage's business address on file with the division. A licensee shall not renew the licensee's license any earlier than two months prior to the filing deadline.

(C) Except as otherwise provided in division (B) of this section, the license of any real estate broker, brokerage, or salesperson that fails to file a notice of renewal on or before the filing deadline of each ensuing year shall be suspended automatically without the taking of any action by the superintendent. A suspended license may be reactivated within twelve months of the date of suspension, provided that the renewal fee plus a penalty fee of fifty per cent of the renewal fee is paid to the superintendent. Failure to reactivate the license as provided in this division shall result in automatic revocation of the license without the taking of any action by the

superintendent. No person, partnership, association, corporation, limited liability company, or limited partnership shall engage in any act or acts for which a real estate license is required while that entity's license is placed in an inactive~~, voluntary hold,~~ or resigned status, or is suspended, or revoked. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code to provide to licensees notice of suspension or revocation or both.

(D) Each licensee shall notify the ~~commission~~ superintendent of a change in personal residence address. A licensee's failure to notify the ~~commission~~ superintendent of a change in personal residence address does not negate the requirement to file the license renewal by the required deadline established by the commission by rule under division (A)(2)(f) of section 4735.10 of the Revised Code.

(E) The superintendent shall not renew a license if the licensee fails to comply with section 4735.141 of the Revised Code or is otherwise not in compliance with this chapter.

(F) The superintendent shall make notice of successful renewal available electronically to licensees as soon as practicable, but not later than thirty days after receipt by the division of a complete application and renewal fee. This notice shall serve as a notice of renewal for purposes of section 4745.02 of the Revised Code.

Sec. 4735.141. (A) Except as otherwise provided in this division and except for a licensee who has placed the licensee's license ~~on voluntary hold or~~ in resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission

pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any disabled licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons of ethics for the real estate industry as adopted by the commission. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year degrees.

Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. A sole broker shall notify affiliated salespersons of the suspension in writing within three days of receiving the notice required by division (C) of this section.

(1) The suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if that broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated, and the superintendent then reactivates the broker's license as a real estate broker.

(2) If the real estate salesperson submits an application to

leave the association of the suspended broker in order to associate with a different broker, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Any person whose license is reactivated pursuant to this division shall comply with the requirements of this section and otherwise be in compliance with this chapter.

(E) Any licensee who is a disabled licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time as deemed appropriate by the superintendent to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education. To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the commission that the licensee was a disabled licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the disability, certifying that the licensee's disability is of such a nature as to prevent the licensee from attending any instruction lasting at least three hours in duration, and stating the expected duration of the disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request the extension and provide the physician's statement as soon as practical after the occurrence of the

disability. A licensee granted an extension pursuant to this division who is no longer a disabled licensee and who submits proof of completion of the continuing education during the extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code.

(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. The proof shall be submitted in the manner provided by the superintendent.

Sec. 4735.142. (A) Any person licensed under section 4735.07 or 4735.09 of the Revised Code, at any time prior to the date the licensee is required to file a notice of renewal pursuant to division (B) of section 4735.14 of the Revised Code may apply to the superintendent of real estate and professional licensing to place the licensee's license ~~on voluntary hold or~~ in a permanently resigned status.

(B) ~~If the superintendent has placed a license on voluntary hold pursuant to a request made under division (A) of this section, the licensee who requested that the licensee's license be placed on voluntary hold may apply to the superintendent to reactivate that license within twelve months after the date the license is placed on voluntary hold. The superintendent shall reactivate that license if the licensee complies with the requirements for such reactivation that are specified in rules adopted by the Ohio real estate commission pursuant to division~~

~~(A) of section 4735.10 of the Revised Code and satisfies all of the following requirements:~~

~~(1) The licensee complies with the postlicensure education requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable;~~

~~(2) The licensee complies with the continuing education requirements specified in section 4735.141 of the Revised Code;~~

~~(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission.~~

~~(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve-month time period specified in that division or does not satisfy the requirements specified in that division during that twelve-month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable.~~

~~(D)~~ A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division (H) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to ~~voluntarily~~ permanently resign the licensee's license voluntarily.

The resignation of a license is considered to be final without the taking of any action by the superintendent. ~~If~~

(C) If a person whose license is in a permanently resigned status pursuant to a request made under this ~~division~~ section wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to division (A) of section 4735.10 of the Revised Code.

~~(E)~~(D) If placing a broker's license ~~on voluntary hold or~~ in a permanently resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the superintendent to place the license ~~on voluntary hold or~~ in a permanently resigned status, shall provide to each salesperson associated with that broker a written notice stating that fact.

~~(F)~~(E) This section does not apply to any licensee whose license has been suspended pursuant to division (F) of section 4735.181 of the Revised Code or due to disciplinary action ordered by the commission pursuant to section 4735.051 of the Revised Code.

Sec. 4735.74. Unless otherwise agreed in writing, a licensee owes no further duty to a client after performance of all duties or after any contract has terminated or expired, except for both of the following:

(A) Providing the client with an accounting of all moneys and property relating to the transaction;

(B) Keeping confidential all information received during the course of the transaction unless:

(1) The client permits disclosure;

(2) Disclosure is required by law or by court order;

(3) The information becomes public from a source other than the licensee;

(4) The information is necessary to prevent a crime the client intends to commit;

(5) Disclosure is necessary to defend the brokerage or its licensees against an accusation of wrongful conduct or to establish or defend a claim that a commission is owed on a transaction~~.~~;

(6) Disclosure is regarding sales information requested by a ~~registered~~ real estate appraiser assistant registered under Chapter 4763. of the Revised Code or a ~~licensed or certified~~ real estate appraiser licensed or certified under Chapter 4763. of the Revised Code for the purposes of performing an appraisal. No cause of action shall arise on behalf of any person against a licensee for releasing information pursuant to this division.

Sec. 4736.01. As used in this chapter:

(A) "Environmental health science" means the aspect of public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation, and rabies control.

(B) "Sanitarian" means a person who performs for compensation educational, investigational, technical, or administrative duties requiring specialized knowledge and skills in the field of environmental health science.

(C) "Registered sanitarian" means a person who is registered as a sanitarian in accordance with this chapter.

(D) "Sanitarian-in-training" means a person who is registered as a sanitarian-in-training in accordance with this chapter.

(E) "Practice of environmental health" means consultation, instruction, investigation, inspection, or evaluation by an employee of a city health district, a general health district, the environmental protection agency, the department of health, or the department of agriculture requiring specialized knowledge, training, and experience in the field of environmental health science, with the primary purpose of improving or conducting administration or enforcement under any of the following:

(1) Chapter 911., 913., 917., 3717., 3718., 3721., 3729., or 3733. of the Revised Code;

(2) Chapter 3734. of the Revised Code as it pertains to solid waste;

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 3707.38 to 3707.99, or section 3715.21 of the Revised Code;

(4) Rules adopted under <u>former</u> section 3701.34 of the Revised Code pertaining to rabies control or swimming pools;

(5) Rules adopted under section 3701.935 of the Revised Code for school health and safety network inspections and rules adopted under section 3707.26 of the Revised Code for sanitary inspections.

"Practice of environmental health" does not include sampling, testing, controlling of vectors, reporting of observations, or other duties that do not require application of specialized knowledge and skills in environmental health science performed under the supervision of a registered sanitarian.

The state board of sanitarian registration may further define environmental health science in relation to specific functions in the practice of environmental health through rules adopted by the

board under Chapter 119. of the Revised Code.

Sec. 4740.03. (A) The administrative section of the Ohio construction industry licensing board annually shall elect from among its members a chairperson and other officers as the board, by rule, designates. The chairperson shall preside over meetings of the administrative section or designate another member to preside in the chairperson's absence. The administrative section shall hold at least two regular meetings each year, but may meet at additional times as specified by rule, at the call of the chairperson, or upon the request of two or more members. A majority of the members of the administrative section constitutes a quorum for the transaction of all business. The administrative section may not take any action without the concurrence of at least three of its members.

(B)(1) The administrative section shall employ a secretary, who is not a member of the board, to serve at the pleasure of the administrative section, and shall fix the compensation of the secretary. The secretary shall be in the unclassified civil service of the state.

(2) The secretary shall do all of the following:

(a) Keep or set standards for and delegate to another person the keeping of the minutes, books, and other records and files of the board and each section of the board;

(b) Issue all licenses in the name of the board;

(c) Send out all notices, including advance notices of meetings of the board and each section of the board, and attend to all correspondence of the board and each section of the board, under the direction of the administrative section;

(d) Receive and deposit all fees payable pursuant to this chapter into the ~~labor~~ industrial compliance operating fund

created pursuant to section 121.084 of the Revised Code;

(e) Perform all other duties incidental to the office of the secretary or properly assigned to the secretary by the administrative section of the board.

(3) Before entering upon the discharge of the duties of the secretary, the secretary shall file with the treasurer of state a bond in the sum of five thousand dollars, payable to the state, to ensure the faithful performance of the secretary's duties. The board shall pay the premium of the bond in the same manner as it pays other expenditures of the board.

(C) Upon the request of the administrative section of the board, the director of commerce shall supply the board and its sections with personnel, office space, and supplies, as the director determines appropriate. The administrative section of the board shall employ any additional staff it considers necessary and appropriate.

(D) The chairperson of the board or the secretary, or both, as authorized by the board, shall approve all vouchers of the board.

Sec. 4740.11. The Ohio construction industry licensing board and its sections shall deposit all receipts and fines collected under this chapter into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of nine persons the director of commerce appoints. The advisory committee shall be made up of the following members:

(1) Three shall be general contractors who have recognized

ability and experience in the construction of residential buildings.

(2) Two shall be building officials who have experience administering and enforcing a residential building code.

(3) One, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety inspector who has at least ten years of experience enforcing fire or building codes.

(4) One shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings.

(5) One shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings.

(6) One, chosen from a list of three names the Ohio municipal league submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.

(B) Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it may model on a residential building code a national

model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;

(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;

(4) Advise the board regarding the interpretation of the state residential building code;

(5) Provide other assistance the committee considers necessary;

(6) Provide the board with a written report of the committee's findings for each consideration required by division (D) of this section.

(D) The committee shall not make its recommendation to the board pursuant to divisions (C)(1), (2), and (4) of this section until the advisory committee has considered all of the following:

(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building code;

(3) The technical feasibility of the residential building code;

(4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing.

(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code.

(F) Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the ~~labor~~ industrial compliance operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund.

(G) The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code.

Sec. 4743.05. Except as otherwise provided in sections 4701.20, 4723.062, 4723.082, ~~and~~ 4729.65, 4781.121, and 4781.28 of the Revised Code, all money collected under Chapters 3773., 4701., 4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 4761., ~~4766.,~~ 4771., 4775., 4779., and 4781. of the Revised Code shall be paid into the state treasury to the credit of the occupational licensing and regulatory fund, which is hereby created for use in administering such chapters.

At the end of each quarter, the director of budget and management shall transfer from the occupational licensing and regulatory fund to the nurse education assistance fund created in section 3333.28 of the Revised Code the amount certified to the

director under division (B) of section 4723.08 of the Revised Code.

At the end of each quarter, the director shall transfer from the occupational licensing and regulatory fund to the certified public accountant education assistance fund created in section 4701.26 of the Revised Code the amount certified to the director under division (H)(2) of section 4701.10 of the Revised Code.

Sec. 4763.05. (A)(1)(a) A person shall make application for an initial state-certified general real estate appraiser certificate, an initial state-certified residential real estate appraiser certificate, an initial state-licensed residential real estate appraiser license, or an initial state-registered real estate appraiser assistant registration in writing to the superintendent of real estate on a form the superintendent prescribes. The application shall include the address of the applicant's principal place of business and all other addresses at which the applicant currently engages in the business of preparing real estate appraisals and the address of the applicant's current residence. The superintendent shall retain the applicant's current residence address in a separate record which ~~shall~~ does not constitute a public record for purposes of section ~~149.03~~ 149.43 of the Revised Code. The application shall indicate whether the applicant seeks certification as a general real estate appraiser or as a residential real estate appraiser, licensure as a residential real estate appraiser, or registration as a real estate appraiser assistant and be accompanied by the prescribed examination and certification, registration, or licensure fees set forth in section 4763.09 of the Revised Code. The application also shall include a pledge, signed by the applicant, that the applicant will comply with the standards set forth in this chapter; and a statement that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated

against the applicant pursuant to this chapter.

(b) Upon the filing of an application and payment of any examination and certification, registration, or licensure fees, the superintendent of real estate shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with ~~division (A)(11) of~~ section 109.572 of the Revised Code. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of real estate shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(2) For purposes of providing funding for the real estate appraiser recovery fund established by section 4763.16 of the Revised Code, the real estate appraiser board shall levy an assessment against each person issued an initial certificate, registration, or license and against current licensees, registrants, and certificate holders, as required by board rule. The assessment is in addition to the application and examination fees for initial applicants required by division (A)(1) of this section and the renewal fees required for current certificate holders, registrants, and licensees. The superintendent of real estate shall deposit the assessment into the state treasury to the credit of the real estate appraiser recovery fund. The assessment for initial certificate holders, registrants, and licensees shall be paid prior to the issuance of a certificate, registration, or license, and for current certificate holders, registrants, and licensees, at the time of renewal.

(B) An applicant for an initial general real estate appraiser certificate, residential real estate appraiser certificate, or

residential real estate appraiser license shall possess experience in real estate appraisal as the board prescribes by rule. In addition to any other information required by the board, the applicant shall furnish, under oath, a detailed listing of the appraisal reports or file memoranda for each year for which experience is claimed and, upon request of the superintendent or the board, shall make available for examination a sample of the appraisal reports prepared by the applicant in the course of the applicant's practice.

(C) An applicant for an initial certificate, registration, or license shall be at least eighteen years of age, honest, truthful, and of good reputation and shall present satisfactory evidence to the superintendent that the applicant has successfully completed any education requirements the board prescribes by rule.

(D) An applicant for an initial general real estate appraiser or residential real estate appraiser certificate or residential real estate appraiser license shall take and successfully complete a written examination in order to qualify for the certificate or license.

The board shall prescribe the examination requirements by rule.

(E)(1) A nonresident, natural person of this state who has complied with this section may obtain a certificate, registration, or license. The board shall adopt rules relating to the certification, registration, and licensure of a nonresident applicant whose state of residence the board determines to have certification, registration, or licensure requirements that are substantially similar to those set forth in this chapter and the rules adopted thereunder.

(2) The board shall recognize on a temporary basis a certification or license issued in another state and shall

register on a temporary basis an appraiser who is certified or licensed in another state if all of the following apply:

(a) The temporary registration is to perform an appraisal assignment that is part of a federally related transaction.

(b) The appraiser's business in this state is of a temporary nature.

(c) The appraiser registers with the board pursuant to this division.

An appraiser who is certified or licensed in another state shall register with the board for temporary practice before performing an appraisal assignment in this state in connection with a federally related transaction.

The board shall adopt rules relating to registration for the temporary recognition of certification and licensure of appraisers from another state. The registration for temporary recognition of certified or licensed appraisers from another state shall not authorize completion of more than one appraisal assignment in this state. The board shall not issue more than two registrations for temporary practice to any one applicant in any calendar year.

(3) In addition to any other information required to be submitted with the nonresident applicant's or appraiser's application for a certificate, registration, license, or temporary recognition of a certificate or license, each nonresident applicant or appraiser shall submit a statement consenting to the service of process upon the nonresident applicant or appraiser by means of delivering that process to the secretary of state if, in an action against the applicant, certificate holder, registrant, or licensee arising from the applicant's, certificate holder's, registrant's, or licensee's activities as a certificate holder, registrant, or licensee, the plaintiff, in the exercise of due diligence, cannot effect personal service upon the applicant,

certificate holder, registrant, or licensee.

(F) The superintendent shall not issue a certificate, registration, or license to, or recognize on a temporary basis an appraiser from another state that is a corporation, partnership, or association. This prohibition shall not be construed to prevent a certificate holder or licensee from signing an appraisal report on behalf of a corporation, partnership, or association.

(G) Every person licensed, registered, or certified under this chapter shall notify the superintendent, on a form provided by the superintendent, of a change in the address of the licensee's, registrant's, or certificate holder's principal place of business or residence within thirty days of the change. If a licensee's, registrant's, or certificate holder's license, registration, or certificate is revoked or not renewed, the licensee, registrant, or certificate holder immediately shall return the annual and any renewal certificate, registration, or license to the superintendent.

(H)(1) The superintendent shall not issue a certificate, registration, or license to any person, or recognize on a temporary basis an appraiser from another state, who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(2) The superintendent shall not issue a general real estate appraiser certificate, residential real estate appraiser certificate, residential real estate appraiser license, or real estate appraiser assistant registration to any person who has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to

such an offense. However, if the applicant has pleaded guilty to or been convicted of such an offense, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

Sec. 4765.02. (A)(1) There is hereby created the state board of emergency medical, fire, and transportation services within the division of emergency medical services of the department of public safety. The board shall consist of the members specified in this section who are residents of this state. The governor, with the advice and consent of the senate, shall appoint all members of the board, except the employee of the department of public safety designated by the director of public safety under this section to be a member of the board. In making the appointments, the governor shall appoint only members with background or experience in emergency medical services or trauma care and shall attempt to include members representing urban and rural areas, various geographical regions of the state, and various schools of training.

(2) One member of the board shall be a physician certified by the American board of emergency medicine or the American osteopathic board of emergency medicine who is active in the practice of emergency medicine and is actively involved with an emergency medical service organization. The governor shall appoint this member from among three persons nominated by the Ohio chapter of the American college of emergency physicians and three persons nominated by the Ohio osteopathic association. One member shall be a physician certified by the American board of surgery or the American osteopathic board of surgery who is active in the

practice of trauma surgery and is actively involved with emergency medical services. The governor shall appoint this member from among three persons nominated by the Ohio chapter of the American college of surgeons and three persons nominated by the Ohio osteopathic association. One member shall be a physician certified by the American academy of pediatrics or American osteopathic board of pediatrics who is active in the practice of pediatric emergency medicine and actively involved with an emergency medical service organization. The governor shall appoint this member from among three persons nominated by the Ohio chapter of the American academy of pediatrics and three persons nominated by the Ohio osteopathic association. ~~One member shall be the administrator of an adult or pediatric trauma center. The governor shall appoint this member from among three persons nominated by the OHA: the association for hospitals and health systems, three persons nominated by the Ohio osteopathic association, three persons nominated by the association of Ohio children's hospitals, and three persons nominated by the health forum of Ohio.~~ One member shall be the administrator of a hospital ~~that is not a trauma center~~ located in this state. The governor shall appoint this member from among three persons nominated by OHA: the association for hospitals and health systems, three persons nominated by the Ohio osteopathic association, and three persons nominated by the association of Ohio children's hospitals~~, and three persons nominated by the health forum of Ohio~~. One member shall be a registered nurse with EMS certification who ~~is in the active practice of emergency nursing~~ performs mobile intensive care or air medical transport. The governor shall appoint this member from among three persons nominated by the Ohio nurses association, three persons nominated by the Ohio association of critical care transport, and three persons nominated by the Ohio state council of the emergency nurses association. One member shall be the chief of a fire department that is also an emergency medical service

organization in which more than fifty per cent of the persons who provide emergency medical services are full-time paid employees. The governor shall appoint this member from among three persons nominated by the Ohio fire chiefs' association. One member shall be the chief of a fire department that is also an emergency medical service organization in which more than fifty per cent of the persons who provide emergency medical services are volunteers. The governor shall appoint this member from among three persons nominated by the Ohio fire chiefs' association. One member shall be a person who is certified to teach under section 4765.23 of the Revised Code ~~or, if the board has not yet certified persons to teach under that section, a person who is qualified to be certified to teach under that section~~ and holds a valid certificate to practice as an EMT, advanced EMT, or paramedic. The governor shall appoint this member from among three persons nominated by the Ohio emergency medical technician instructors association and the Ohio instructor/coordinators' society. One member shall be an ~~EMT-basic, one shall be an EMT-I~~ EMT, advanced EMT, or paramedic, and one member shall be a paramedic. The governor shall appoint these members from among three ~~EMTs-basic, three EMTs-I,~~ EMTs or advanced EMTs and three paramedics nominated by the Ohio association of professional fire fighters ~~and three EMTs-basic, three EMTs-I, and three paramedics nominated by the northern Ohio fire fighters~~. One member shall be an ~~EMT-basic, one shall be an EMT-I~~ EMT, advanced EMT, or paramedic, and one member shall be a paramedic ~~whom the~~. The governor shall appoint these members from among three ~~EMTs-basic, three EMTs-I,~~ EMTs or advanced EMTs and three paramedics nominated by the Ohio state firefighter's association. One member shall be a person whom the governor shall appoint from among an ~~EMT-basic, an EMT-I, and~~ EMT, an advanced EMT, or a paramedic nominated by the Ohio association of emergency medical services or the Ohio ambulance and medical transportation association. One member shall be an EMT, an

advanced EMT, or a paramedic, whom the governor shall appoint from among three persons nominated by the Ohio ambulance and medical transportation association. One member shall be a paramedic, whom the governor shall appoint from among three persons nominated by the Ohio ambulance and medical transportation association. ~~The governor shall appoint one member who is an EMT-basic, EMT-I, or paramedic affiliated with an emergency medical services organization. One member shall be a member of the Ohio ambulance association whom the governor shall appoint from among three persons nominated by the Ohio ambulance association. One member shall be a physician certified by the American board of surgery, American board of osteopathic surgery, American osteopathic board of emergency medicine, or American board of emergency medicine who is the chief medical officer of an air medical agency and is currently active in providing emergency medical services. The governor shall appoint this member from among three persons nominated by the Ohio association of air medical services.~~ One member shall be the owner or operator of a private emergency medical service organization whom the governor shall appoint from among three persons nominated by the Ohio ambulance and medical transportation association. One member shall be a provider of mobile intensive care unit transportation in this state whom the governor shall appoint from among three persons nominated by the Ohio association of critical care transport. One member shall be a provider of air-medical transportation in this state whom the governor shall appoint from among three persons nominated by the Ohio association of critical care transport. One member shall be the owner or operator of a nonemergency medical service organization in this state that provides ambulette services whom the governor shall appoint from among three persons nominated by the Ohio ambulance and medical transportation association.

The governor may refuse to appoint any of the persons nominated by one or more organizations under division (A)(2) of

this section, except the employee of the department of public safety designated by the director of public safety under this section to be a member of the board. In that event, the organization or organizations shall continue to nominate the required number of persons until the governor appoints to the board one or more of the persons nominated by the organization or organizations.

The director of public safety shall designate an employee of the department of public safety to serve as a member of the board at the director's pleasure. This member shall serve as a liaison between the department and the division of emergency medical services in cooperation with the executive director of the board.

~~Initial appointments to the board by the governor and the director of public safety shall be made within ninety days after November 12, 1992. Of the initial appointments by the governor, five shall be for terms ending one year after November 12, 1992, six shall be for terms ending two years after November 12, 1992, and six shall be for terms ending three years after November 12, 1992. Within ninety days after the effective date of this amendment, the governor shall appoint the member of the board who is the chief medical officer of an air medical agency for an initial term ending November 12, 2000. Thereafter, terms~~

(B) Terms of office of all members appointed by the governor shall be for three years, each term ending on the same day of the same month as did the term it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Each vacancy shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy

occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the unexpired term.

The term of a member shall expire if the member ceases to meet any of the requirements to be appointed as that member. The governor may remove any member from office for neglect of duty, malfeasance, misfeasance, or nonfeasance, after an adjudication hearing held in accordance with Chapter 119. of the Revised Code.

(C) The members of the board shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in carrying out their duties as board members.

(D) The board shall organize by annually selecting a chair and vice-chair from among its members. The board may adopt bylaws to regulate its affairs. A majority of all members of the board shall constitute a quorum. No action shall be taken without the concurrence of a majority of all members of the board. The board shall meet at least four times annually and at the call of the chair. The chair shall call a meeting on the request of the executive director or the medical director of the board or on the written request of five members. The board shall maintain written or electronic records of its meetings.

(E) Upon twenty-four hours' notice from a member of the board, the member's employer shall release the member from the member's employment duties to attend meetings of the full board. Nothing in this ~~paragraph~~ division requires the employer of a member of the board to compensate the member for time the member is released from employment duties under this paragraph, but any civil immunity, workers' compensation, disability, or similar coverage that applies to a member of the board as a result of the member's employment shall continue to apply while the member is released from employment duties under this paragraph.

Sec. 4765.03. (A) The director of public safety shall appoint a full-time executive director for the state board of emergency medical and transportation services. The executive director shall be knowledgeable in emergency medical services and trauma care and shall serve at the pleasure of the director of public safety. The director of public safety shall appoint the executive director from among three persons nominated by the board. The director of public safety may refuse, for cause, to appoint any of the board's nominees. If the director fails to appoint any of the board's nominees, the board shall continue to nominate groups of three persons until the director does appoint one of the board's nominees. The executive director shall serve as the chief executive officer of the board and as the executive director of the division of emergency medical services. The executive director shall attend each meeting of the board, except the board may exclude the executive director from discussions concerning the employment or performance of the executive director or medical director of the board. The executive director shall give a surety bond to the state in such sum as the board determines, conditioned on the faithful performance of the duties of the executive director's office. The executive director shall receive a salary from the board and shall be reimbursed for actual and necessary expenses incurred in carrying out duties as executive director.

The executive director shall submit a report to the director of public safety at least every three months regarding the status of emergency medical services in this state. The executive director shall meet with the director of public safety at the director's request.

(B) The board shall appoint a medical director, who shall serve at the pleasure of the board. The medical director shall be a physician certified by the American board of emergency medicine

or the American osteopathic board of emergency medicine who is active in the practice of emergency medicine and has been actively involved with an emergency medical service organization for at least five years prior to being appointed. The board shall consider any recommendations for this appointment from the Ohio chapter of the American college of emergency physicians, the Ohio chapter of the American college of surgeons, the Ohio chapter of the American academy of pediatrics, the Ohio osteopathic association, and the Ohio state medical association.

The medical director shall direct the executive director and advise the board with regard to adult and pediatric trauma and emergency medical services issues. The medical director shall attend each meeting of the board, except the board may exclude the medical director from discussions concerning the appointment or performance of the medical director or executive director of the board. The medical director shall be employed and paid by the board and shall be reimbursed for actual and necessary expenses incurred in carrying out duties as medical director.

(C) The board may appoint employees as it determines necessary. The board shall prescribe the duties and titles of its employees.

Sec. 4765.04. (A) The firefighter and fire safety inspector training committee of the state board of emergency medical<u>, fire, and transportation</u> services is hereby created and shall consist of the members of the board who are chiefs of fire departments, and the members of the board who are emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic appointed from among persons nominated by the Ohio association of professional fire fighters or the northern Ohio fire fighters and from among persons nominated by the Ohio state firefighter's association. Each member

of the committee, except the chairperson, may designate a person with fire experience to serve in that member's place. The members of the committee or their designees shall select a chairperson from among the members or their designees.

The committee may conduct investigations in the course of discharging its duties under this chapter. In the course of an investigation, the committee may issue subpoenas. If a person subpoenaed fails to comply with the subpoena, the committee may authorize its chairperson to apply to the court of common pleas in the county where the person to be subpoenaed resides for an order compelling compliance in the same manner as compliance with a subpoena issued by the court is compelled.

(B) The trauma committee of the state board of emergency medical<u>, fire, and transportation</u> services is hereby created and shall consist of the following members appointed by the director of public safety:

(1) A physician who is certified by the American board of surgery or American osteopathic board of surgery and actively practices general trauma surgery, appointed from among three persons nominated by the Ohio chapter of the American college of surgeons, three persons nominated by the Ohio state medical association, and three persons nominated by the Ohio osteopathic association;

(2) A physician who is certified by the American board of surgery or the American osteopathic board of surgery and actively practices orthopedic trauma surgery, appointed from among three persons nominated by the Ohio orthopedic society and three persons nominated by the Ohio osteopathic association;

(3) A physician who is certified by the American board of neurological surgeons or the American osteopathic board of surgery and actively practices neurosurgery on trauma victims, appointed

from among three persons nominated by the Ohio state neurological society and three persons nominated by the Ohio osteopathic association;

(4) A physician who is certified by the American board of surgeons or American osteopathic board of surgeons and actively specializes in treating burn victims, appointed from among three persons nominated by the Ohio chapter of the American college of surgeons and three persons nominated by the Ohio osteopathic association;

(5) A dentist who is certified by the American board of oral and maxillofacial surgery and actively practices oral and maxillofacial surgery, appointed from among three persons nominated by the Ohio dental association;

(6) A physician who is certified by the American board of physical medicine and rehabilitation or American osteopathic board of rehabilitation medicine and actively provides rehabilitative care to trauma victims, appointed from among three persons nominated by the Ohio society of physical medicine and rehabilitation and three persons nominated by the Ohio osteopathic association;

(7) A physician who is certified by the American board of surgery or American osteopathic board of surgery with special qualifications in pediatric surgery and actively practices pediatric trauma surgery, appointed from among three persons nominated by the Ohio chapter of the American academy of pediatrics and three persons nominated by the Ohio osteopathic association;

(8) A physician who is certified by the American board of emergency medicine or American osteopathic board of emergency medicine, actively practices emergency medicine, and is actively involved in emergency medical services, appointed from among three

persons nominated by the Ohio chapter of the American college of emergency physicians and three persons nominated by the Ohio osteopathic association;

(9) A physician who is certified by the American board of pediatrics, American osteopathic board of pediatrics, or American board of emergency medicine, is sub-boarded in pediatric emergency medicine, actively practices pediatric emergency medicine, and is actively involved in emergency medical services, appointed from among three persons nominated by the Ohio chapter of the American academy of pediatrics, three persons nominated by the Ohio chapter of the American college of emergency physicians, and three persons nominated by the Ohio osteopathic association;

(10) A physician who is certified by the American board of surgery, American osteopathic board of surgery, or American board of emergency medicine and is the chief medical officer of an air medical organization, appointed from among three persons nominated by the Ohio association of air medical services;

(11) A coroner or medical examiner appointed from among three people nominated by the Ohio state coroners' association;

(12) A registered nurse who actively practices trauma nursing at an adult or pediatric trauma center, appointed from among three persons nominated by the Ohio association of trauma nurse coordinators;

(13) A registered nurse who actively practices emergency nursing and is actively involved in emergency medical services, appointed from among three persons nominated by the Ohio chapter of the emergency nurses' association;

(14) The chief trauma registrar of an adult or pediatric trauma center, appointed from among three persons nominated by the alliance of Ohio trauma registrars;

(15) The administrator of an adult or pediatric trauma

center, appointed from among three persons nominated by OHA: the association for hospitals and health systems, three persons nominated by the Ohio osteopathic association, three persons nominated by the association of Ohio children's hospitals, and three persons nominated by the health forum of Ohio;

(16) The administrator of a hospital that is not a trauma center and actively provides emergency care to adult or pediatric trauma patients, appointed from among three persons nominated by OHA: the association for hospitals and health systems, three persons nominated by the Ohio osteopathic association, three persons nominated by the association of Ohio children's hospitals, and three persons nominated by the health forum of Ohio;

(17) The operator of an ambulance company that actively provides trauma care to emergency patients, appointed from among three persons nominated by the Ohio ambulance association;

(18) The chief of a fire department that actively provides trauma care to emergency patients, appointed from among three persons nominated by the Ohio fire chiefs' association;

(19) An EMT or paramedic who is certified under this chapter and actively provides trauma care to emergency patients, appointed from among three persons nominated by the Ohio association of professional firefighters, three persons nominated by the northern Ohio fire fighters, three persons nominated by the Ohio state firefighters' association, and three persons nominated by the Ohio association of emergency medical services;

(20) A person who actively advocates for trauma victims, appointed from three persons nominated by the Ohio brain injury association and three persons nominated by the governor's council on people with disabilities;

(21) A physician or nurse who has substantial administrative responsibility for trauma care provided in or by an adult or

pediatric trauma center, appointed from among three persons nominated by OHA: the association for hospitals and health systems, three persons nominated by the Ohio osteopathic association, three persons nominated by the association of Ohio children's hospitals, and three persons nominated by the health forum of Ohio;

(22) Three representatives of hospitals that are not trauma centers and actively provide emergency care to trauma patients, appointed from among three persons nominated by OHA: the association for hospitals and health systems, three persons nominated by the Ohio osteopathic association, three persons nominated by the association of Ohio children's hospitals, and three persons nominated by the health forum of Ohio. The representatives may be hospital administrators, physicians, nurses, or other clinical professionals.

Members of the committee shall have substantial experience in the categories they represent, shall be residents of this state, and may be members of the state board of emergency medical<u>, fire, and transportation</u> services. In appointing members of the committee, the director shall attempt to include members representing urban and rural areas, various geographical areas of the state, and various schools of training. The director shall not appoint to the committee more than one member who is employed by or practices at the same hospital, health system, or emergency medical service organization.

The director may refuse to appoint any of the persons nominated by an organization or organizations under this division. In that event, the organization or organizations shall continue to nominate the required number of persons until the director appoints to the committee one or more of the persons nominated by the organization or organizations.

Initial appointments to the committee shall be made by the

director not later than ninety days after November 3, 2000. Members of the committee shall serve at the pleasure of the director, except that any member of the committee who ceases to be qualified for the position to which the member was appointed shall cease to be a member of the committee. Vacancies on the committee shall be filled in the same manner as original appointments.

The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in carrying out duties as members of the committee.

The committee shall select a chairperson and vice-chairperson from among its members. A majority of all members of the committee shall constitute a quorum. No action shall be taken without the concurrence of a majority of all members of the committee. The committee shall meet at the call of the chair, upon written request of five members of the committee, and at the direction of the state board of emergency medical, fire, and transportation services. The committee shall not meet at times or locations that conflict with meetings of the board. The executive director and medical director of the state board of emergency medical, fire, and transportation services may participate in any meeting of the committee and shall do so at the request of the committee.

The committee shall advise and assist the state board of emergency medical, fire, and transportation services in matters related to adult and pediatric trauma care and the establishment and operation of the state trauma registry. In matters relating to the state trauma registry, the board and the committee shall consult with trauma registrars from adult and pediatric trauma centers in the state. The committee may appoint a subcommittee to advise and assist with the trauma registry. The subcommittee may include persons with expertise relevant to the trauma registry who are not members of the board or committee.

(C) The state board of emergency medical, fire, and

transportation services may appoint other committees and subcommittees as it considers necessary.

(D) The state board of emergency medical, fire, and transportation services, and any of its committees or subcommittees, may request assistance from any state agency. The board and its committees and subcommittees may permit persons who are not members of those bodies to participate in deliberations of those bodies, but no person who is not a member of the board shall vote on the board and no person who is not a member of a committee created under division (A) or (B) of this section shall vote on that committee.

(E) Sections 101.82 to 101.87 of the Revised Code do not apply to the committees established under division (A) or (B) of this section.

Sec. 4765.05. (A) As used in this section, "prehospital emergency medical services" means an emergency medical services system that provides medical services to patients who require immediate assistance, because of illness or injury, prior to their arrival at an emergency medical facility.

(B) The state board of emergency medical, fire, and transportation services shall divide the state geographically into prehospital emergency medical services regions for purposes of overseeing the delivery of adult and pediatric prehospital emergency medical services. For each prehospital emergency medical services region, the state board of emergency medical, fire, and transportation services shall appoint either a physician to serve as the regional director or a physician advisory board to serve as the regional advisory board. The state board of emergency medical, fire, and transportation services shall specify the duties of each regional director and regional advisory board. Regional directors and members of regional advisory boards shall serve without

compensation, but shall be reimbursed for actual and necessary expenses incurred in carrying out duties as regional directors and members of regional advisory boards.

(C) Nothing in this section shall be construed to limit in any way the ability of a hospital to determine the market area of that hospital.

Sec. 4765.06. (A) The state board of emergency medical<u>, fire, and transportation</u> services shall establish an emergency medical services incidence reporting system for the collection of information regarding the delivery of emergency medical services in this state and the frequency at which the services are provided. All emergency medical service organizations shall submit to the board any information that the board determines is necessary for maintaining the incidence reporting system.

(B) The board shall establish a state trauma registry to be used for the collection of information regarding the care of adult and pediatric trauma victims in this state. The registry shall provide for the reporting of adult and pediatric trauma-related deaths, identification of adult and pediatric trauma patients, monitoring of adult and pediatric trauma patient care data, determination of the total amount of uncompensated adult and pediatric trauma care provided annually by each facility that provides care to trauma victims, and collection of any other information specified by the board. All persons designated by the board shall submit to the board any information it determines is necessary for maintaining the state trauma registry. At the request of the board any state agency possessing information regarding adult or pediatric trauma care shall provide the information to the board. The board shall maintain the state trauma registry in accordance with rules adopted under section 4765.11 of the Revised Code.

Rules relating to the state trauma registry adopted under this section and section 4765.11 of the Revised Code shall not prohibit the operation of other trauma registries and may provide for the reporting of information to the state trauma registry by or through other trauma registries in a manner consistent with information otherwise reported to the state trauma registry. Other trauma registries may report aggregate information to the state trauma registry, provided the information can be matched to the person that reported it. Information maintained by another trauma registry and reported to the state trauma registry in lieu of being reported directly to the state trauma registry is a public record and shall be maintained, made available to the public, held in confidence, risk adjusted, and not subject to discovery or introduction into evidence in a civil action as provided in section 149.43 of the Revised Code and this section. Any person who provides, maintains, or risk adjusts such information shall comply with this section and rules adopted under it in performing that function and has the same immunities with respect to that function as a person who performs that function with respect to the state trauma registry.

(C) The board and any employee or contractor of the board or the department of public safety shall not make public information it receives under Chapter 4765. of the Revised Code that identifies or would tend to identify a specific recipient of emergency medical services or adult or pediatric trauma care.

(D) Not later than two years after ~~the effective date of this amendment~~ November 3, 2000, the board shall adopt and implement rules under section 4765.11 of the Revised Code that provide written standards and procedures for risk adjustment of information received by the board under Chapter 4765. of the Revised Code. The rules shall be developed in consultation with appropriate medical, hospital, and emergency medical service

organizations and may provide for risk adjustment by a contractor of the board. Before risk adjustment standards and procedures are implemented, no member of the board and no employee or contractor of the board or the department of public safety shall make public information received by the board under Chapter 4765. of the Revised Code that identifies or would tend to identify a specific provider of emergency medical services or adult or pediatric trauma care. After risk adjustment standards and procedures are implemented, the board shall make public such information only on a risk adjusted basis.

(E) The board shall adopt rules under section 4765.11 of the Revised Code that specify procedures for ensuring the confidentiality of information that is not to be made public under this section. The rules shall specify the circumstances in which deliberations of the persons performing risk adjustment functions under this section are not open to the public and records of those deliberations are maintained in confidence. Nothing in this section prohibits the board from making public statistical information that does not identify or tend to identify a specific recipient or provider of emergency medical services or adult or pediatric trauma care.

(F) No provider that furnishes information to the board with respect to any patient the provider examined or treated shall, because of this furnishing, be deemed liable in damages to any person or be held to answer for betrayal of a professional confidence in the absence of willful or wanton misconduct. No such information shall be subject to introduction in evidence in any civil action against the provider. No provider that furnishes information to the board shall be liable for the misuse or improper release of the information by the board or any other person.

No person who performs risk adjustment functions under this

section shall, because of performing such functions, be held liable in a civil action for betrayal of professional confidence or otherwise in the absence of willful or wanton misconduct.

Sec. 4765.07. (A) The state board of emergency medical<u>, fire, and transportation</u> services shall adopt rules under section 4765.11 of the Revised Code to establish and administer a grant program under which grants are distributed according to the following priorities:

(1) First priority shall be given to emergency medical service organizations for the training of personnel, for the purchase of equipment and vehicles, and to improve the availability, accessibility, and quality of emergency medical services in this state. In this category, the board shall give priority to grants that fund training and equipping of emergency medical service personnel.

(2) Second priority shall be given to entities that research, test, and evaluate medical procedures and systems related to adult and pediatric trauma care.

(3) Third priority shall be given to entities that research the causes, nature, and effects of traumatic injuries, educate the public about injury prevention, and implement, test, and evaluate injury prevention strategies.

(4) Fourth priority shall be given to entities that research, test, and evaluate procedures that promote the rehabilitation, retraining, and reemployment of adult or pediatric trauma victims and social service support mechanisms for adult or pediatric trauma victims and their families.

(5) Fifth priority shall be given to entities that conduct research on, test, or evaluate one or more of the following:

(a) Procedures governing the performance of emergency medical

services in this state;

(b) The training of emergency medical service personnel;

(c) The staffing of emergency medical service organizations.

(6) For grants distributed for the grant award years occurring not later than the award year ending June 30, 2017, sixth priority shall be given to entities that operate paramedic training programs and are seeking national accreditation of the programs.

(B) To be eligible for a grant distributed pursuant to division (A)(6) of this section, an applicant for the grant shall meet all of the following conditions:

(1) Hold a certificate of accreditation issued by the board under section 4765.17 of the Revised Code to operate a paramedic training program;

(2) Be seeking initial national accreditation of the program from an accrediting organization approved by the board;

(3) Apply for the national accreditation on or after February 25, 2010.

(C) The grant program shall be funded from the trauma and emergency medical services ~~grants~~ fund created by section 4513.263 of the Revised Code.

Sec. 4765.08. The state board of emergency medical<u>, fire, and transportation</u> services shall prepare a statewide emergency medical services plan and shall revise the plan as necessary.

The board shall prepare a plan for the statewide regulation of emergency medical services during periods of disaster. The plan shall be consistent with the statewide emergency medical services plan required under this section and with the statewide emergency operations plan required under section 5502.22 of the Revised

Code. The board shall submit the plan to the emergency management agency created under section 5502.22 of the Revised Code. The board shall cooperate with the agency in any other manner the agency considers necessary to develop and implement the statewide emergency operations plan.

Sec. 4765.09. The state board of emergency medical<u>, fire, and transportation</u> services shall prepare recommendations for the operation of ambulance service organizations, air medical organizations, and emergency medical service organizations. Within thirty days following the preparation or modification of recommendations, the board shall notify the board of county commissioners of any county, the board of township trustees of any township, the board of trustees of any joint ambulance district, or the board of trustees of any joint emergency medical services district in which there exist ambulance service organizations, air medical organizations, or emergency medical service organizations of any board recommendations for the operation of such organizations. The recommendations shall include, but not be limited to:

(A) The definition and classification of ambulances and medical aircraft;

(B) The design, equipment, and supplies for ambulances and medical aircraft, including special equipment, supplies, training, and staffing required to assist pediatric and geriatric emergency victims;

(C) The minimum number and type of personnel for the operation of ambulances and medical aircraft;

(D) The communication systems necessary for the operation of ambulances and medical aircraft;

(E) Reports to be made by persons holding certificates of

accreditation or approval issued under section 4765.17 of the Revised Code and certificates to practice issued under section 4765.30 of the Revised Code to ascertain compliance with this chapter and the rules and recommendations adopted thereunder and to ascertain the quantity and quality of ambulance service organizations, air medical organizations, and emergency medical service organizations throughout the state.

Sec. 4765.10. (A) The state board of emergency medical<u>, fire, and transportation</u> services shall do all of the following:

(1) Administer and enforce the provisions of this chapter and the rules adopted under it;

(2) Approve, in accordance with procedures established in rules adopted under section 4765.11 of the Revised Code, examinations that demonstrate competence to have a certificate to practice renewed without completing a continuing education program;

(3) Advise applicants for state or federal emergency medical services funds, review and comment on applications for these funds, and approve the use of all state and federal funds designated solely for emergency medical service programs unless federal law requires another state agency to approve the use of all such federal funds;

(4) Serve as a statewide clearinghouse for discussion, inquiry, and complaints concerning emergency medical services;

(5) Make recommendations to the general assembly on legislation to improve the delivery of emergency medical services;

(6) Maintain a toll-free long distance telephone number through which it shall respond to questions about emergency medical services;

(7) Work with appropriate state offices in coordinating the

training of firefighters and emergency medical service personnel. Other state offices that are involved in the training of firefighters or emergency medical service personnel shall cooperate with the board and its committees and subcommittees to achieve this goal.

(8) Provide a liaison to the state emergency operation center during those periods when a disaster, as defined in section 5502.21 of the Revised Code, has occurred in this state and the governor has declared an emergency as defined in that section.

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

(1) Investigate complaints concerning emergency medical services and emergency medical service organizations as it determines necessary;

(2) Enter into reciprocal agreements with other states that have standards for accreditation of emergency medical services training programs and for certification of first responders, EMTs-basic, EMTs-I, paramedics, firefighters, or fire safety inspectors that are substantially similar to those established under this chapter and the rules adopted under it;

(3) Establish a statewide public information system and public education programs regarding emergency medical services;

(4) Establish an injury prevention program.

Sec. 4765.101. (A) The state board of emergency medical<u>, fire, and transportation</u> services shall investigate any allegation that a person has violated this chapter or a rule adopted under it.

Any person may submit to the board a written complaint regarding an alleged violation of this chapter or a rule adopted under it. In the absence of fraud or bad faith, no person submitting a complaint to the board or testifying in an

adjudication hearing conducted in accordance with Chapter 119. of the Revised Code with regard to such an alleged violation shall be liable to any person in damages in a civil action as a result of submitting the complaint or providing testimony.

(B) In investigating an allegation, the board may do any of the following:

(1) Administer oaths;

(2) Order the taking of depositions;

(3) Issue subpoenas;

(4) Compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony.

(C) A subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the executive director of the board. Before issuance of a subpoena for patient record information, the executive director shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

(D) On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move, pursuant to the Rules of Civil Procedure, for an order compelling the production of persons or records.

(E) A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or an investigator for the division of emergency medical services of the department of public safety. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named in it,

reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an individual authorized by this chapter to practice emergency medical services, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or on the date that the person refuses to accept delivery.

Sec. 4765.102. (A) As used in this section, "licensing agency" means any entity that has the authority pursuant to Title XLVII of the Revised Code to issue a license, and any other agency of this or another state, other than the Ohio supreme court, that has the authority to issue a license that authorizes an individual to engage in an occupation or profession. "Licensing agency" includes an administrative officer that has authority to issue a license that authorizes an individual to engage in an occupation or profession.

(B) Except as provided in divisions (C) and (D) of this section and section 4765.111 of the Revised Code, all information the state board of emergency medical<u>, fire, and transportation</u> services receives pursuant to an investigation, including information regarding an alleged violation of this chapter or rules adopted under it or a complaint submitted under division (A) of section 4765.101 of the Revised Code, is confidential, and is not subject to discovery in any civil action, during the course of the investigation and any adjudication proceedings that result from the investigation. Upon completion of the investigation and any resulting adjudication proceedings, the information is a matter of public record for purposes of section 149.43 of the Revised Code.

(C) The board may release information otherwise made confidential by division (B) of this section to law enforcement

officers or licensing agencies of this or another state that are prosecuting, adjudicating, or investigating the holder of a certificate issued under this chapter or a person who allegedly engaged in the unauthorized provision of emergency medical services.

A law enforcement officer or licensing agency with information disclosed by the board under this division shall not divulge the information other than for the purpose of an adjudication by a court or licensing agency to which the subject of the adjudication is a party.

(D) If an investigation conducted under section 4765.101 of the Revised Code requires a review of patient records, the investigation and proceedings related to it shall be conducted in such a manner as to protect patient confidentiality. The board shall not make public the name or any other identifying information about a patient unless proper consent is given in accordance with rules adopted by the board. If the patient is less than eighteen years of age, the board shall obtain consent from the patient's parent, guardian, or custodian.

Sec. 4765.11. (A) The state board of emergency medical<u>, fire, and transportation</u> services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and division (C) of this section that establish all of the following:

(1) Procedures for its governance and the control of its actions and business affairs;

(2) Standards for the performance of emergency medical services by first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic;

(3) Application fees for certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice, which shall be deposited into the trauma and emergency medical services fund created in section 4513.263 of the Revised Code;

(4) Criteria for determining when the application or renewal fee for a certificate to practice may be waived because an applicant cannot afford to pay the fee;

(5) Procedures for issuance and renewal of certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice, including any procedures necessary to ensure that adequate notice of renewal is provided in accordance with division (D) of section 4765.30 of the Revised Code;

(6) Procedures for suspending or revoking certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice;

(7) Grounds for suspension or revocation of a certificate to practice issued under section 4765.30 of the Revised Code and for taking any other disciplinary action against a first responder, EMT-basic, EMT-I, or paramedic;

(8) Procedures for taking disciplinary action against a first responder, EMT-basic, EMT-I, or paramedic;

(9) Standards for certificates of accreditation and certificates of approval;

(10) Qualifications for certificates to teach;

(11) Requirements for a certificate to practice;

(12) The curricula, number of hours of instruction and training, and instructional materials to be used in adult and pediatric emergency medical services training programs and adult

and pediatric emergency medical services continuing education programs;

(13) Procedures for conducting courses in recognizing symptoms of life-threatening allergic reactions and in calculating proper dosage levels and administering injections of epinephrine to adult and pediatric patients who suffer life-threatening allergic reactions;

(14) Examinations for certificates to practice;

(15) Procedures for administering examinations for certificates to practice;

(16) Procedures for approving examinations that demonstrate competence to have a certificate to practice renewed without completing an emergency medical services continuing education program;

(17) Procedures for granting extensions and exemptions of emergency medical services continuing education requirements;

(18) Procedures for approving the additional emergency medical services first responders are authorized by division (C) of section 4765.35 of the Revised Code to perform, EMTs-basic are authorized by division (C) of section 4765.37 of the Revised Code to perform, EMTs-I are authorized by division (B)(5) of section 4765.38 of the Revised Code to perform, and paramedics are authorized by division (B)(6) of section 4765.39 of the Revised Code to perform;

(19) Standards and procedures for implementing the requirements of section 4765.06 of the Revised Code, including designations of the persons who are required to report information to the board and the types of information to be reported;

(20) Procedures for administering the emergency medical services grant program established under section 4765.07 of the

Revised Code;

(21) Procedures consistent with Chapter 119. of the Revised Code for appealing decisions of the board;

(22) Minimum qualifications and peer review and quality improvement requirements for persons who provide medical direction to emergency medical service personnel;

(23) The manner in which a patient, or a patient's parent, guardian, or custodian may consent to the board releasing identifying information about the patient under division (D) of section 4765.102 of the Revised Code;

(24) Circumstances under which a training program or continuing education program, or portion of either type of program, may be taught by a person who does not hold a certificate to teach issued under section 4765.23 of the Revised Code;

(25) Certification cycles for certificates issued under sections 4765.23 and 4765.30 of the Revised Code and certificates issued by the executive director of the state board of emergency medical<u>, fire, and transportation</u> services under section 4765.55 of the Revised Code that establish a common expiration date for all certificates.

(B) The board may adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and division (C) of this section that establish the following:

(1) Specifications of information that may be collected under the trauma system registry and incidence reporting system created under section 4765.06 of the Revised Code;

(2) Standards and procedures for implementing any of the recommendations made by any committees of the board or under section 4765.04 of the Revised Code;

(3) Requirements that a person must meet to receive a

certificate to practice as a first responder pursuant to division (A)(2) of section 4765.30 of the Revised Code;

(4) Any other rules necessary to implement this chapter.

(C) In developing and administering rules adopted under this chapter, the state board of emergency medical, fire, and transportation services shall consult with regional directors and regional physician advisory boards created by section 4765.05 of the Revised Code and emphasize the special needs of pediatric and geriatric patients.

(D) Except as otherwise provided in this division, before adopting, amending, or rescinding any rule under this chapter, the board shall submit the proposed rule to the director of public safety for review. The director may review the proposed rule for not more than sixty days after the date it is submitted. If, within this sixty-day period, the director approves the proposed rule or does not notify the board that the rule is disapproved, the board may adopt, amend, or rescind the rule as proposed. If, within this sixty-day period, the director notifies the board that the proposed rule is disapproved, the board shall not adopt, amend, or rescind the rule as proposed unless at least twelve members of the board vote to adopt, amend, or rescind it.

This division does not apply to an emergency rule adopted in accordance with section 119.03 of the Revised Code.

Sec. 4765.111. Except as provided in this section or sections 4765.112 to 4765.116 of the Revised Code, the state board of emergency medical, fire, and transportation services shall conduct disciplinary proceedings regarding the holder of a certificate issued under this chapter in accordance with rules adopted by the board under section 4765.11 of the Revised Code.

The board and a holder of a certificate are the parties to a

hearing conducted under this chapter. Either party may submit a written request to the other party for a list of witnesses and copies of documents intended to be introduced at the hearing. The request shall be in writing and shall be served not less than thirty-seven days prior to the commencement of the hearing, unless the hearing officer or presiding board member grants an extension of time to make the request. Not later than thirty days before the hearing, the responding party shall provide the requested list of witnesses and copies of documents to the requesting party, unless the hearing officer or presiding board member grants an extension of time to provide the list and copies.

Failure to timely provide a list or copies requested in accordance with this section shall result in exclusion from the hearing of the witnesses, testimony, or documents.

Sec. 4765.112. (A) The state board of emergency medical, fire, and transportation services, by an affirmative vote of the majority of its members, may suspend without a prior hearing a certificate to practice issued under this chapter if the board determines that there is clear and convincing evidence that continued practice by the certificate holder presents a danger of immediate and serious harm to the public and that the certificate holder has done any of the following:

(1) Furnished false, fraudulent, or misleading information to the board;

(2) Engaged in activities that exceed those permitted by the individual's certificate;

(3) In a court of this or any other state or federal court been convicted of, pleaded guilty to, or been the subject of a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony

or for a misdemeanor committed in the course of practice or involving gross immorality or moral turpitude.

(B) Immediately following the decision to impose a summary suspension, the board, in accordance with section 119.07 of the Revised Code, shall issue a written order of suspension, cause it to be delivered to the certificate holder, and notify the certificate holder of the opportunity for a hearing. If timely requested by the certificate holder, a hearing shall be conducted in accordance with section 4765.115 of the Revised Code.

Sec. 4765.113. If the state board of emergency medical<u>, fire, and transportation</u> services imposes a suspension on the basis of a conviction, judicial finding, or plea as described in division (A)(3) of section 4765.112 of the Revised Code that is overturned on appeal, the certificate holder, on exhaustion of the criminal appeal process, may file with the board a petition for reconsideration of the suspension along with appropriate court documents. On receipt of the petition and documents, the board shall reinstate the certificate holder's certificate to practice.

Sec. 4765.114. (A) A certificate to practice emergency medical services issued under this chapter is automatically suspended on the certificate holder's conviction of, plea of guilty to, or judicial finding of guilt of any of the following: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated burglary, aggravated robbery, or a substantially equivalent offense committed in this or another jurisdiction. Continued practice after the suspension is practicing without a certificate.

(B) If the state board of emergency medical<u>, fire, and transportation</u> services has knowledge that an automatic suspension

has occurred, it shall notify, in accordance with section 119.07 of the Revised Code, the certificate holder of the suspension and of the opportunity for a hearing. If timely requested by the certificate holder, a hearing shall be conducted in accordance with section 4765.115 of the Revised Code.

Sec. 4765.115. (A) A suspension order issued under section 4765.112 or automatic suspension under section 4765.114 of the Revised Code is not subject to suspension by a court prior to a hearing under this section or during the pendency of any appeal filed under section 119.12 of the Revised Code.

(B) A suspension order issued under section 4765.112 or automatic suspension under section 4765.114 of the Revised Code remains in effect, unless reversed by the state board of emergency medical<u>, fire, and transportation</u> services, until a final adjudication order issued by the board pursuant to this section becomes effective.

(C) Hearings requested pursuant to section 4765.112 or 4765.114 of the Revised Code shall be conducted under this section in accordance with Chapter 119. of the Revised Code.

(D) A hearing under this section shall be held not later than forty-five days but not earlier than forty days after the certificate holder requests it, unless another date is agreed to by the certificate holder and the board.

(E) After completion of an adjudication hearing, the board may adopt, by an affirmative vote of the majority of its members, a final adjudication order that imposes any of the following sanctions:

(1) Suspension of the holder's certificate to practice;

(2) Revocation of the holder's certificate to practice;

(3) Issuance of a written reprimand;

(4) A refusal to renew or a limitation on the holder's certificate to practice.

The board shall issue its final adjudication order not later than forty-five days after completion of an adjudication hearing. If the board does not issue a final order within that time period, the suspension order is void, but any final adjudication order subsequently issued is not affected.

(F) Any action taken by the board under this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the certificate to practice may be reinstated. Reinstatement of a certificate suspended under this section requires an affirmative vote by the majority of the members of the board.

(G) When the board revokes or refuses to reinstate a certificate to practice, the board may specify that its action is permanent. An individual subject to permanent action taken by the board is forever ineligible to hold a certificate of the type revoked or refused, and the board shall not accept from the individual an application for reinstatement of the certificate or for a new certificate.

Sec. 4765.116. If a certificate holder subject to a suspension order issued by the state board of emergency medical, fire, and transportation services under section 4765.112 or an automatic suspension order under section 4765.114 of the Revised Code fails to make a timely request for a hearing, the following apply:

(A) In the case of a certificate holder subject to a summary suspension order, the board is not required to hold a hearing, but may adopt, by an affirmative vote of a majority of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division

(E) of section 4765.115 of the Revised Code.

(B) In the case of a certificate holder subject to an automatic suspension order, the board may adopt, by an affirmative vote of a majority of its members, a final order that permanently revokes the holder's certificate to practice.

Sec. 4765.12. (A) Not later than two years after ~~the effective date of this section~~ November 3, 2000, the state board of emergency medical and transportation services shall develop and distribute guidelines for the care of trauma victims by emergency medical service personnel and for the conduct of peer review and quality assurance programs by emergency medical service organizations. The guidelines shall be consistent with the state trauma triage protocols adopted in rules under sections 4765.11 and 4765.40 of the Revised Code and shall place emphasis on the special needs of pediatric and geriatric trauma victims. In developing the guidelines, the board shall consult with entities with interests in trauma and emergency medical services and shall consider any relevant guidelines adopted by national organizations, including the American college of surgeons, American college of emergency physicians, and American academy of pediatrics. The board shall distribute the guidelines, and amendments to the guidelines, to each emergency medical service organization, regional director, regional physician advisory board, certified emergency medical service instructor, and person who regularly provides medical direction to emergency medical service personnel in this state.

(B) Not later than three years after ~~the effective date of this section~~ November 3, 2000, each emergency medical service organization in this state shall implement ongoing peer review and quality assurance programs designed to improve the availability and quality of the emergency medical services it provides. The

form and content of the programs shall be determined by each emergency medical service organization. In implementing the programs, each emergency medical service organization shall consider how to improve its ability to provide effective trauma care, particularly for pediatric and geriatric trauma victims, and shall take into account the trauma care guidelines developed by the state board of emergency medical, fire, and transportation services under this section.

Information generated solely for use in a peer review or quality assurance program conducted on behalf of an emergency medical service organization is not a public record under section 149.43 of the Revised Code. Such information, and any discussion conducted in the course of a peer review or quality assurance program conducted on behalf of an emergency medical service organization, is not subject to discovery in a civil action and shall not be introduced into evidence in a civil action against the emergency medical service organization on whose behalf the information was generated or the discussion occurred.

No emergency medical service organization on whose behalf a peer review or quality assurance program is conducted, and no person who conducts such a program, because of performing such functions, shall be liable in a civil action for betrayal of professional confidence or otherwise in the absence of willful or wanton misconduct.

Sec. 4765.15. A person seeking to operate an emergency medical services training program shall submit a completed application for accreditation to the state board of emergency medical, fire, and transportation services on a form the board shall prescribe and furnish. The application shall be accompanied by the appropriate application fee established in rules adopted under section 4765.11 of the Revised Code.

A person seeking to operate an emergency medical services continuing education program shall submit a completed application for approval to the board on a form the board shall prescribe and furnish. The application shall be accompanied by the appropriate application fee established in rules adopted under section 4765.11 of the Revised Code.

The board shall administer the accreditation and approval processes pursuant to rules adopted under section 4765.11 of the Revised Code. In administering these processes, the board may authorize other persons to evaluate applications for accreditation or approval and may accept the recommendations made by those persons.

The board may cause an investigation to be made into the accuracy of the information submitted in any application for accreditation or approval. If an investigation indicates that false, misleading, or incomplete information has been submitted to the board in connection with any application for accreditation or approval, the board shall conduct a hearing on the matter in accordance with Chapter 119. of the Revised Code.

Sec. 4765.16. (A) All courses offered through an emergency medical services training program or an emergency medical services continuing education program, other than ambulance driving, shall be developed under the direction of a physician who specializes in emergency medicine. Each course that deals with trauma care shall be developed in consultation with a physician who specializes in trauma surgery. Except as specified by the state board of emergency medical<u>, fire, and transportation</u> services pursuant to rules adopted under section 4765.11 of the Revised Code, each course offered through a training program or continuing education program shall be taught by a person who holds the appropriate certificate to teach issued under section 4765.23 of the Revised

Code.

(B) A training program for first responders shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. The program shall include courses in both of the following areas for at least the number of hours established by the board's rules:

(1) Emergency victim care;

(2) Reading and interpreting a trauma victim's vital signs.

(C) A training program for emergency medical technicians-basic shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. The program shall include courses in each of the following areas for at least the number of hours established by the board's rules:

(1) Emergency victim care;

(2) Reading and interpreting a trauma victim's vital signs;

(3) Triage protocols for adult and pediatric trauma victims;

(4) In-hospital training;

(5) Clinical training;

(6) Training as an ambulance driver.

Each operator of a training program for emergency medical technicians-basic shall allow any pupil in the twelfth grade in a secondary school who is at least seventeen years old and who otherwise meets the requirements for admission into such a training program to be admitted to and complete the program and, as part of the training, to ride in an ambulance with emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic. Each emergency medical service organization shall allow pupils participating in training programs to ride in an ambulance with emergency medical technicians-basic, advanced

emergency medical technicians-intermediate, and emergency medical technicians-paramedic.

(D) A training program for emergency medical technicians-intermediate shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. The program shall include, or require as a prerequisite, the training specified in division (C) of this section and courses in each of the following areas for at least the number of hours established by the board's rules:

(1) Recognizing symptoms of life-threatening allergic reactions and in calculating proper dosage levels and administering injections of epinephrine to persons who suffer life-threatening allergic reactions, conducted in accordance with rules adopted by the board under section 4765.11 of the Revised Code;

(2) Venous access procedures;

(3) Cardiac monitoring and electrical interventions to support or correct the cardiac function.

(E) A training program for emergency medical technicians-paramedic shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. The program shall include, or require as a prerequisite, the training specified in divisions (C) and (D) of this section and courses in each of the following areas for at least the number of hours established by the board's rules:

(1) Medical terminology;

(2) Venous access procedures;

(3) Airway procedures;

(4) Patient assessment and triage;

(5) Acute cardiac care, including administration of

parenteral injections, electrical interventions, and other emergency medical services;

(6) Emergency and trauma victim care beyond that required under division (C) of this section;

(7) Clinical training beyond that required under division (C) of this section.

(F) A continuing education program for first responders, EMTs-basic, EMTs-I, or paramedics shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. A continuing education program shall include instruction and training in subjects established by the board's rules for at least the number of hours established by the board's rules.

Sec. 4765.17. (A) The state board of emergency medical<u>, fire, and transportation</u> services shall issue the appropriate certificate of accreditation or certificate of approval to an applicant who is of good reputation and meets the requirements of section 4765.16 of the Revised Code. The board shall grant or deny a certificate of accreditation or certificate of approval within one hundred twenty days of receipt of the application. The board may issue or renew a certificate of accreditation or certificate of approval on a provisional basis to an applicant who is of good reputation and is in substantial compliance with the requirements of section 4765.16 of the Revised Code. The board shall inform an applicant receiving such a certificate of the conditions that must be met to complete compliance with section 4765.16 of the Revised Code.

(B) Except as provided in division (C) of this section, a certificate of accreditation or certificate of approval is valid for up to five years and may be renewed by the board pursuant to procedures and standards established in rules adopted under

section 4765.11 of the Revised Code. An application for renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section 4765.11 of the Revised Code.

(C) A certificate of accreditation or certificate of approval issued on a provisional basis is valid for the length of time established by the board. If the board finds that the holder of such a certificate has met the conditions it specifies under division (A) of this section, the board shall issue the appropriate certificate of accreditation or certificate of approval.

(D) A certificate of accreditation is valid only for the emergency medical services training program or programs for which it is issued. The holder of a certificate of accreditation may apply to operate additional training programs in accordance with rules adopted by the board under section 4765.11 of the Revised Code. Any additional training programs shall expire on the expiration date of the applicant's current certificate. A certificate of approval is valid only for the emergency medical services continuing education program for which it is issued. Neither is transferable.

(E) The holder of a certificate of accreditation or a certificate of approval may offer courses at more than one location in accordance with rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.18. The state board of emergency medical<u>, fire, and transportation</u> services may suspend or revoke a certificate of accreditation or a certificate of approval issued under section 4765.17 of the Revised Code for any of the following reasons:

(A) Violation of this chapter or any rule adopted under it;

(B) Furnishing of false, misleading, or incomplete

information to the board;

(C) The signing of an application or the holding of a certificate of accreditation by a person who has pleaded guilty to or has been convicted of a felony, or has pleaded guilty to or been convicted of a crime involving moral turpitude;

(D) The signing of an application or the holding of a certificate of accreditation by a person who is addicted to the use of any controlled substance or has been adjudicated incompetent for that purpose by a court, as provided in section 5122.301 of the Revised Code;

(E) Violation of any commitment made in an application for a certificate of accreditation or certificate of approval;

(F) Presentation to prospective students of misleading, false, or fraudulent information relating to the emergency medical services training program or emergency medical services continuing education program, employment opportunities, or opportunities for enrollment in accredited institutions of higher education after entering or completing courses offered by the operator of a program;

(G) Failure to maintain in a safe and sanitary condition premises and equipment used in conducting courses of study;

(H) Failure to maintain financial resources adequate for the satisfactory conduct of courses of study or to retain a sufficient number of certified instructors;

(I) Discrimination in the acceptance of students upon the basis of race, color, religion, sex, or national origin.

Sec. 4765.22. A person seeking a certificate to teach in an emergency medical services training program or an emergency medical services continuing education program shall submit a completed application for certification to the state board of

emergency medical, fire, and transportation services on a form the board shall prescribe and furnish. The application shall be accompanied by the appropriate application fee established in rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.23. The state board of emergency medical, fire, and transportation services shall issue a certificate to teach in an emergency medical services training program or an emergency medical services continuing education program to any applicant who it determines meets the qualifications established in rules adopted under section 4765.11 of the Revised Code. The certificate shall indicate each type of instruction and training the certificate holder may teach under the certificate.

A certificate to teach shall have a certification cycle established by the board and may be renewed by the board pursuant to rules adopted under section 4765.11 of the Revised Code. An application for renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section 4765.11 of the Revised Code.

The board may suspend or revoke a certificate to teach pursuant to rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.28. A person seeking a certificate to practice as a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic shall submit a completed application for certification to the state board of emergency medical, fire, and transportation services on a form the board shall prescribe and furnish. Except as provided in division (B) of section 4765.29 of the Revised Code, the application shall include evidence that the applicant received the appropriate certificate of completion

pursuant to section 4765.24 of the Revised Code. The application shall be accompanied by the appropriate application fee established in rules adopted under section 4765.11 of the Revised Code, unless the board waives the fee on determining pursuant to those rules that the applicant cannot afford to pay the fee.

Sec. 4765.29. (A) The state board of emergency medical<u>, fire, and transportation</u> services shall provide for the examination of applicants for certification to practice as first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic. The examinations shall be established by the board in rules adopted under section 4765.11 of the Revised Code. The board may administer the examinations or contract with other persons to administer the examinations. In either case, the examinations shall be administered pursuant to procedures established in rules adopted under section 4765.11 of the Revised Code and shall be offered at various locations in the state selected by the board.

Except as provided in division (B) of this section, an applicant shall not be permitted to take an examination for the same certificate to practice more than three times since last receiving the certificate of completion pursuant to section 4765.24 of the Revised Code that qualifies the applicant to take the examination unless the applicant receives another certificate of completion that qualifies the applicant to take the examination.

(B) On request of an applicant who fails three examinations for the same certificate to practice, the board may direct the applicant to complete a specific portion of an accredited emergency medical services training program. If the applicant provides satisfactory proof to the board that the applicant has

successfully completed that portion of the program, the applicant shall be permitted to take the examination.

Sec. 4765.30. (A)(1) The state board of emergency medical, fire, and transportation services shall issue a certificate to practice as a first responder to an applicant who meets all of the following conditions:

(a) Except as provided in division (A)(2) of this section, is a volunteer for a nonprofit emergency medical service organization or a nonprofit fire department;

(b) Holds the appropriate certificate of completion issued in accordance with section 4765.24 of the Revised Code;

(c) Passes the appropriate examination conducted under section 4765.29 of the Revised Code;

(d) Is not in violation of any provision of this chapter or the rules adopted under it;

(e) Meets any other certification requirements established in rules adopted under section 4765.11 of the Revised Code.

(2) The board may waive the requirement to be a volunteer for a nonprofit entity if the applicant meets other requirements established in rules adopted under division (B)(3) of section 4765.11 of the Revised Code relative to a person's eligibility to practice as a first responder.

(B) The state board of emergency medical, fire, and transportation services shall issue a certificate to practice as an emergency medical technician-basic to an applicant who meets all of the following conditions:

(1) Holds a certificate of completion in emergency medical services training-basic issued in accordance with section 4765.24 of the Revised Code;

(2) Passes the examination for emergency medical technicians-basic conducted under section 4765.29 of the Revised Code;

(3) Is not in violation of any provision of this chapter or the rules adopted under it;

(4) Meets any other certification requirements established in rules adopted under section 4765.11 of the Revised Code.

(C) The state board of emergency medical<u>, fire, and transportation</u> services shall issue a certificate to practice as an emergency medical technician-intermediate or emergency medical technician-paramedic to an applicant who meets all of the following conditions:

(1) Holds a certificate to practice as an emergency medical technician-basic;

(2) Holds the appropriate certificate of completion issued in accordance with section 4765.24 of the Revised Code;

(3) Passes the appropriate examination conducted under section 4765.29 of the Revised Code;

(4) Is not in violation of any provision of this chapter or the rules adopted under it;

(5) Meets any other certification requirements established in rules adopted under section 4765.11 of the Revised Code.

(D) A certificate to practice shall have a certification cycle established by the board and may be renewed by the board pursuant to rules adopted under section 4765.11 of the Revised Code. Not later than sixty days prior to the expiration date of an individual's certificate to practice, the board shall notify the individual of the scheduled expiration.

An application for renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section

4765.11 of the Revised Code, unless the board waives the fee on determining pursuant to those rules that the applicant cannot afford to pay the fee. Except as provided in division (B) of section 4765.31 of the Revised Code, the application shall include evidence of either of the following:

(1) That the applicant received a certificate of completion from the appropriate emergency medical services continuing education program pursuant to section 4765.24 of the Revised Code;

(2) That the applicant has successfully passed an examination that demonstrates the competence to have a certificate renewed without completing an emergency medical services continuing education program. The board shall approve such examinations in accordance with rules adopted under section 4765.11 of the Revised Code.

(E) The board shall not require an applicant for renewal of a certificate to practice to take an examination as a condition of renewing the certificate. This division does not preclude the use of examinations by operators of approved emergency medical services continuing education programs as a condition for issuance of a certificate of completion in emergency medical services continuing education.

Sec. 4765.31. (A) Except as provided in division (B) of this section, a first responder, emergency medical technician-basic, emergency medical technician-intermediate, and emergency medical technician-paramedic shall complete an emergency medical services continuing education program or pass an examination approved by the state board of emergency medical<u>, fire, and transportation</u> services under division (A) of section 4765.10 of the Revised Code prior to the expiration of the individual's certificate to practice. Completion of the continuing education requirements for EMTs-I or paramedics satisfies the continuing education

requirements for renewing the certificate to practice as an EMT-basic held by an EMT-I or paramedic.

(B)(1) An applicant for renewal of a certificate to practice may apply to the board, in writing, for an extension to complete the continuing education requirements established under division (A) of this section. The board may grant such an extension and determine the length of the extension. The board may authorize the applicant to continue to practice during the extension as if the certificate to practice had not expired.

(2) An applicant for renewal of a certificate to practice may apply to the board, in writing, for an exemption from the continuing education requirements established under division (A) of this section. The board may exempt an individual or a group of individuals from all or any part of the continuing education requirements due to active military service, unusual circumstance, emergency, special hardship, or any other cause considered reasonable by the board.

(C) Decisions of whether to grant an extension or exemption under division (B) of this section shall be made by the board pursuant to procedures established in rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.32. A current, valid certificate of accreditation issued under the provisions of former section 3303.11 or 3303.23 of the Revised Code shall remain valid until one year after the expiration date of the certificate as determined by the provisions of those sections and shall confer the same privileges and impose the same responsibilities and requirements as a certificate of accreditation issued by the state board of emergency medical, fire, and transportation services under section 4765.17 of the Revised Code.

A certificate to practice as an emergency medical

technician-ambulance that is valid on November 24, 1995, shall be considered a certificate to practice as an emergency medical technician-basic. A certificate to practice as an advanced emergency medical technician-ambulance that is valid on November 24, 1995, shall be considered a certificate to practice as an emergency medical technician-intermediate.

Sec. 4765.33. The state board of emergency medical<u>, fire, and transportation</u> services may suspend or revoke certificates to practice issued under section 4765.30 of the Revised Code, and may take other disciplinary action against first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic pursuant to rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.37. (A) An emergency medical technician-basic shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it by the state board of emergency medical<u>, fire, and transportation</u> services.

(B) An emergency medical technician-basic may operate, or be responsible for operation of, an ambulance and may provide emergency medical services to patients. In an emergency, an EMT-basic may determine the nature and extent of illness or injury and establish priority for required emergency medical services. An EMT-basic may render emergency medical services such as opening and maintaining an airway, giving positive pressure ventilation, cardiac resuscitation, electrical interventions with automated defibrillators to support or correct the cardiac function and other methods determined by the board, controlling of hemorrhage, treatment of shock, immobilization of fractures, bandaging, assisting in childbirth, management of mentally disturbed

patients, initial care of poison and burn patients, and determining triage of adult and pediatric trauma victims. Where patients must in an emergency be extricated from entrapment, an EMT-basic may assess the extent of injury and render all possible emergency medical services and protection to the entrapped patient; provide light rescue services if an ambulance has not been accompanied by a specialized unit; and after extrication, provide additional care in sorting of the injured in accordance with standard emergency procedures.

(C) An EMT-basic may perform any other emergency medical services approved pursuant to rules adopted under section 4765.11 of the Revised Code. The board shall determine whether the nature of any such service requires that an EMT-basic receive authorization prior to performing the service.

(D)(1) Except as provided in division (D)(2) of this section, if the board determines under division (C) of this section that a service requires prior authorization, the service shall be performed only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician or registered nurse designated by a physician.

(2) If communications fail during an emergency situation or the required response time prohibits communication, an EMT-basic may perform services subject to this division, if, in the judgment of the EMT-basic, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the EMT-basic is affiliated.

Sec. 4765.38. (A) An emergency medical technician-intermediate shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it.

(B) An EMT-I may do any of the following:

(1) Establish and maintain an intravenous lifeline that has been approved by a cooperating physician or physician advisory board;

(2) Perform cardiac monitoring;

(3) Perform electrical interventions to support or correct the cardiac function;

(4) Administer epinephrine;

(5) Determine triage of adult and pediatric trauma victims;

(6) Perform any other emergency medical services approved pursuant to rules adopted under section 4765.11 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, the services described in division (B) of this section shall be performed by an EMT-I only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician or registered nurse designated by a physician.

(2) If communications fail during an emergency situation or the required response time prohibits communication, an EMT-I may perform any of the services described in division (B) of this section, if, in the judgment of the EMT-I, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in

rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the EMT-I is affiliated.

(D) In addition to, and in the course of, providing emergency medical treatment, an emergency medical technician-intermediate may withdraw blood as provided under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. An emergency medical technician-intermediate shall withdraw blood in accordance with this chapter and any rules adopted under it by the state board of emergency medical and transportation services.

Sec. 4765.39. (A) An emergency medical technician-paramedic shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it.

(B) A paramedic may do any of the following:

(1) Perform cardiac monitoring;

(2) Perform electrical interventions to support or correct the cardiac function;

(3) Perform airway procedures;

(4) Perform relief of pneumothorax;

(5) Administer appropriate drugs and intravenous fluids;

(6) Determine triage of adult and pediatric trauma victims;

(7) Perform any other emergency medical services, including life support or intensive care techniques, approved pursuant to rules adopted under section 4765.11 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, the services described in division (B) of this section shall be performed by a paramedic only pursuant to the written or verbal authorization of a physician or of the cooperating physician

advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician or registered nurse designated by a physician.

(2) If communications fail during an emergency situation or the required response time prohibits communication, a paramedic may perform any of the services described in division (B) of this section, if, in the paramedic's judgment, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the paramedic is affiliated.

(D) In addition to, and in the course of, providing emergency medical treatment, an emergency medical technician-paramedic may withdraw blood as provided under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. An emergency medical technician-paramedic shall withdraw blood in accordance with this chapter and any rules adopted under it by the state board of emergency medical, fire, and transportation services.

Sec. 4765.40. (A)(1) Not later than two years after ~~the effective date of this amendment~~ November 3, 2000, the state board of emergency medical, fire, and transportation services shall adopt rules under section 4765.11 of the Revised Code establishing written protocols for the triage of adult and pediatric trauma victims. The rules shall define adult and pediatric trauma in a manner that is consistent with section 4765.01 of the Revised Code, minimizes overtriage and undertriage, and emphasizes the special needs of pediatric and geriatric trauma patients.

(2) The state triage protocols adopted under division (A) of this section shall require a trauma victim to be transported

directly to an adult or pediatric trauma center that is qualified to provide appropriate adult or pediatric trauma care, unless one or more of the following exceptions applies:

(a) It is medically necessary to transport the victim to another hospital for initial assessment and stabilization before transfer to an adult or pediatric trauma center;

(b) It is unsafe or medically inappropriate to transport the victim directly to an adult or pediatric trauma center due to adverse weather or ground conditions or excessive transport time;

(c) Transporting the victim to an adult or pediatric trauma center would cause a shortage of local emergency medical service resources;

(d) No appropriate adult or pediatric trauma center is able to receive and provide adult or pediatric trauma care to the trauma victim without undue delay;

(e) Before transport of a patient begins, the patient requests to be taken to a particular hospital that is not a trauma center or, if the patient is less than eighteen years of age or is not able to communicate, such a request is made by an adult member of the patient's family or a legal representative of the patient.

(3)(a) The state triage protocols adopted under division (A) of this section shall require trauma patients to be transported to an adult or pediatric trauma center that is able to provide appropriate adult or pediatric trauma care, but shall not require a trauma patient to be transported to a particular trauma center. The state triage protocols shall establish one or more procedures for evaluating whether an injury victim requires or would benefit from adult or pediatric trauma care, which procedures shall be applied by emergency medical service personnel based on the patient's medical needs. In developing state trauma triage protocols, the board shall consider relevant model triage rules

and shall consult with the commission on minority health, regional directors, regional physician advisory boards, and appropriate medical, hospital, and emergency medical service organizations.

(b) Before the joint committee on agency rule review considers state triage protocols for trauma victims proposed by the state board of emergency medical, fire, and transportation services, or amendments thereto, the board shall send a copy of the proposal to the Ohio chapter of the American college of emergency physicians, the Ohio chapter of the American college of surgeons, the Ohio chapter of the American academy of pediatrics, OHA: the association for hospitals and health systems, the Ohio osteopathic association, and the association of Ohio children's hospitals and shall hold a public hearing at which it must consider the appropriateness of the protocols to minimize overtriage and undertriage of trauma victims.

(c) The board shall provide copies of the state triage protocols, and amendments to the protocols, to each emergency medical service organization, regional director, regional physician advisory board, certified emergency medical service instructor, and person who regularly provides medical direction to emergency medical service personnel in the state; to each medical service organization in other jurisdictions that regularly provide emergency medical services in this state; and to others upon request.

(B)(1) The state board of emergency medical, fire, and transportation services shall approve regional protocols for the triage of adult and pediatric trauma victims, and amendments to such protocols, that are submitted to the board as provided in division (B)(2) of this section and provide a level of adult and pediatric trauma care comparable to the state triage protocols adopted under division (A) of this section. The board shall not otherwise approve regional triage protocols for trauma victims.

The board shall not approve regional triage protocols for regions that overlap and shall resolve any such disputes by apportioning the overlapping territory among appropriate regions in a manner that best serves the medical needs of the residents of that territory. The trauma committee of the board shall have reasonable opportunity to review and comment on regional triage protocols and amendments to such protocols before the board approves or disapproves them.

(2) Regional protocols for the triage of adult and pediatric trauma victims, and amendments to such protocols, shall be submitted in writing to the state board of emergency medical, fire, and transportation services by the regional physician advisory board or regional director, as appropriate, that serves a majority of the population in the region in which the protocols apply. Prior to submitting regional triage protocols, or an amendment to such protocols, to the state board of emergency medical, fire, and transportation services, a regional physician advisory board or regional director shall consult with each of the following that regularly serves the region in which the protocols apply:

(a) Other regional physician advisory boards and regional directors;

(b) Hospitals that operate an emergency facility;

(c) Adult and pediatric trauma centers;

(d) Professional societies of physicians who specialize in adult or pediatric emergency medicine or adult or pediatric trauma surgery;

(e) Professional societies of nurses who specialize in adult or pediatric emergency nursing or adult or pediatric trauma surgery;

(f) Professional associations or labor organizations of

emergency medical service personnel;

(g) Emergency medical service organizations and medical directors of such organizations;

(h) Certified emergency medical service instructors.

(3) Regional protocols for the triage of adult and pediatric trauma victims approved under division (B)(2) of this section shall require patients to be transported to a trauma center that is able to provide an appropriate level of adult or pediatric trauma care; shall not discriminate among trauma centers for reasons not related to a patient's medical needs; shall seek to minimize undertriage and overtriage; may include any of the exceptions in division (A)(2) of this section; and supersede the state triage protocols adopted under division (A) of this section in the region in which the regional protocols apply.

(4) Upon approval of regional protocols for the triage of adult and pediatric trauma victims under division (B)(2) of this section, or an amendment to such protocols, the state board of emergency medical<u>, fire, and transportation</u> services shall provide written notice of the approval and a copy of the protocols or amendment to each entity in the region in which the protocols apply to which the board is required to send a copy of the state triage protocols adopted under division (A) of this section.

(C)(1) The state board of emergency medical<u>, fire, and transportation</u> services shall review the state triage protocols adopted under division (A) of this section at least every three years to determine if they are causing overtriage or undertriage of trauma patients, and shall modify them as necessary to minimize overtriage and undertriage.

(2) Each regional physician advisory board or regional director that has had regional triage protocols approved under division (B)(2) of this section shall review the protocols at

least every three years to determine if they are causing overtriage or undertriage of trauma patients and shall submit an appropriate amendment to the state board, as provided in division (B) of this section, as necessary to minimize overtriage and undertriage. The state board shall approve the amendment if it will reduce overtriage or undertriage while complying with division (B) of this section, and shall not otherwise approve the amendment.

(D) No provider of emergency medical services or person who provides medical direction to emergency medical service personnel in this state shall fail to comply with the state triage protocols adopted under division (A) of this section or applicable regional triage protocols approved under division (B)(2) of this section.

(E) The state board of emergency medical<u>, fire, and transportation</u> services shall adopt rules under section 4765.11 of the Revised Code that provide for enforcement of the state triage protocols adopted under division (A) of this section and regional triage protocols approved under division (B)(2) of this section, and for education regarding those protocols for emergency medical service organizations and personnel, regional directors and regional physician advisory boards, emergency medical service instructors, and persons who regularly provide medical direction to emergency medical service personnel in this state.

Sec. 4765.42. Each emergency medical service organization shall give notice of the name of its medical director or the names of the members of its cooperating physician advisory board to the state board of emergency medical<u>, fire, and transportation</u> services. The notice shall be made in writing.

Sec. 4765.48. The attorney general, the prosecuting attorney of the county, or the city director of law shall, upon complaint

of the state board of emergency medical, fire, and transportation services, prosecute to termination or bring an action for injunction against any person violating this chapter or the rules adopted under it. The common pleas court in which an action for injunction is filed has the jurisdiction to grant injunctive relief upon a showing that the respondent named in the complaint is in violation of this chapter or the rules adopted under it.

Sec. 4765.49. (A) A first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's administration of emergency medical services, unless the services are administered in a manner that constitutes willful or wanton misconduct. A physician or registered nurse designated by a physician, who is advising or assisting in the emergency medical services by means of any communication device or telemetering system, is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's advisory communication or assistance, unless the advisory communication or assistance is provided in a manner that constitutes willful or wanton misconduct. Medical directors and members of cooperating physician advisory boards of emergency medical service organizations are not liable in damages in a civil action for injury, death, or loss to person or property resulting from their acts or omissions in the performance of their duties, unless the act or omission constitutes willful or wanton misconduct.

(B) A political subdivision, joint ambulance district, joint emergency medical services district, or other public agency, and any officer or employee of a public agency or of a private organization operating under contract or in joint agreement with one or more political subdivisions, that provides emergency

medical services, or that enters into a joint agreement or a contract with the state, any political subdivision, joint ambulance district, or joint emergency medical services district for the provision of emergency medical services, is not liable in damages in a civil action for injury, death, or loss to person or property arising out of any actions taken by a first responder, EMT-basic, EMT-I, or paramedic working under the officer's or employee's jurisdiction, or for injury, death, or loss to person or property arising out of any actions of licensed medical personnel advising or assisting the first responder, EMT-basic, EMT-I, or paramedic, unless the services are provided in a manner that constitutes willful or wanton misconduct.

(C) A student who is enrolled in an emergency medical services training program accredited under section 4765.17 of the Revised Code or an emergency medical services continuing education program approved under that section is not liable in damages in a civil action for injury, death, or loss to person or property resulting from either of the following:

(1) The student's administration of emergency medical services or patient care or treatment, if the services, care, or treatment is administered while the student is under the direct supervision and in the immediate presence of an EMT-basic, EMT-I, paramedic, registered nurse, or physician and while the student is receiving clinical training that is required by the program, unless the services, care, or treatment is provided in a manner that constitutes willful or wanton misconduct;

(2) The student's training as an ambulance driver, unless the driving is done in a manner that constitutes willful or wanton misconduct.

(D) An EMT-basic, EMT-I, paramedic, or other operator, who holds a valid commercial driver's license issued pursuant to Chapter 4506. of the Revised Code or driver's license issued

pursuant to Chapter 4507. of the Revised Code and who is employed by an emergency medical service organization that is not owned or operated by a political subdivision as defined in section 2744.01 of the Revised Code, is not liable in damages in a civil action for injury, death, or loss to person or property that is caused by the operation of an ambulance by the EMT-basic, EMT-I, paramedic, or other operator while responding to or completing a call for emergency medical services, unless the operation constitutes willful or wanton misconduct or does not comply with the precautions of section 4511.03 of the Revised Code. An emergency medical service organization is not liable in damages in a civil action for any injury, death, or loss to person or property that is caused by the operation of an ambulance by its employee or agent, if this division grants the employee or agent immunity from civil liability for the injury, death, or loss.

(E) An employee or agent of an emergency medical service organization who receives requests for emergency medical services that are directed to the organization, dispatches first responders, EMTs-basic, EMTs-I, or paramedics in response to those requests, communicates those requests to those employees or agents of the organization who are authorized to dispatch first responders, EMTs-basic, EMTs-I, or paramedics, or performs any combination of these functions for the organization, is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's acts or omissions in the performance of those duties for the organization, unless an act or omission constitutes willful or wanton misconduct.

(F) A person who is performing the functions of a first responder, EMT-basic, EMT-I, or paramedic under the authority of the laws of a state that borders this state and who provides emergency medical services to or transportation of a patient in this state is not liable in damages in a civil action for injury,

death, or loss to person or property resulting from the person's administration of emergency medical services, unless the services are administered in a manner that constitutes willful or wanton misconduct. A physician or registered nurse designated by a physician, who is licensed to practice in the adjoining state and who is advising or assisting in the emergency medical services by means of any communication device or telemetering system is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the person's advisory communication or assistance, unless the advisory communication or assistance is provided in a manner that constitutes willful or wanton misconduct.

(G) A person certified under section 4765.23 of the Revised Code to teach in an emergency medical services training program or emergency medical services continuing education program, and a person who teaches at the Ohio fire academy established under section 3737.33 of the Revised Code or in a fire service training program described in division (A) of section 4765.55 of the Revised Code, is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the person's acts or omissions in the performance of the person's duties, unless an act or omission constitutes willful or wanton misconduct.

(H) In the accreditation of emergency medical services training programs or approval of emergency medical services continuing education programs, the state board of emergency medical<u>, fire, and transportation</u> services and any person or entity authorized by the board to evaluate applications for accreditation or approval are not liable in damages in a civil action for injury, death, or loss to person or property resulting from their acts or omissions in the performance of their duties, unless an act or omission constitutes willful or wanton

misconduct.

(I) A person authorized by an emergency medical service organization to review the performance of first responders, EMTs-basic, EMTs-I, and paramedics or to administer quality assurance programs is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the person's acts or omissions in the performance of the person's duties, unless an act or omission constitutes willful or wanton misconduct.

Sec. 4765.55. (A) The executive director of the state board of emergency medical, fire, and transportation services, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services, shall assist in the establishment and maintenance by any state agency, or any county, township, city, village, school district, or educational service center of a fire service training program for the training of all persons in positions of any fire training certification level approved by the executive director, including full-time paid firefighters, part-time paid firefighters, volunteer firefighters, and, fire safety inspectors in this state. The executive director, with the advice and counsel of the committee, shall adopt rules to regulate those firefighter and fire safety inspector training programs, and other training programs approved by the executive director. The rules may include, but need not be limited to, training curriculum, certification examinations, training schedules, minimum hours of instruction, attendance requirements, required equipment and facilities, basic physical requirements, and methods of training for all persons in positions of any fire training certification level approved by the executive director, including full-time paid firefighters, part-time paid firefighters, volunteer firefighters, and fire safety inspectors. The rules

adopted to regulate training programs for volunteer firefighters shall not require more than thirty-six hours of training.

The executive director, with the advice and counsel of the committee, shall provide for the classification and chartering of fire service training programs in accordance with rules adopted under division (B) of this section, and may take action against any chartered training program or applicant, in accordance with rules adopted under divisions (B)(4) and (5) of this section, for failure to meet standards set by the adopted rules.

(B) The executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical<u>, fire, and transportation</u> services, shall adopt, and may amend or rescind, rules under Chapter 119. of the Revised Code that establish all of the following:

(1) Requirements for, and procedures for chartering, the training programs regulated by this section;

(2) Requirements for, and requirements and procedures for obtaining and renewing, an instructor certificate to teach the training programs and continuing education classes regulated by this section;

(3) Requirements for, and requirements and procedures for obtaining and renewing, any of the fire training certificates regulated by this section;

(4) Grounds and procedures for suspending, revoking, restricting, or refusing to issue or renew any of the certificates or charters regulated by this section, which grounds shall be limited to one of the following:

(a) Failure to satisfy the education or training requirements of this section;

(b) Conviction of a felony offense;

(c) Conviction of a misdemeanor involving moral turpitude;

(d) Conviction of a misdemeanor committed in the course of practice;

(e) In the case of a chartered training program or applicant, failure to meet standards set by the rules adopted under this division.

(5) Grounds and procedures for imposing and collecting fines, not to exceed one thousand dollars, in relation to actions taken under division (B)(4) of this section against persons holding certificates and charters regulated by this section, the fines to be deposited into the trauma and emergency medical services fund established under section 4513.263 of the Revised Code;

(6) Continuing education requirements for certificate holders, including a requirement that credit shall be granted for in-service training programs conducted by local entities;

(7) Procedures for considering the granting of an extension or exemption of fire service continuing education requirements;

(8) Certification cycles for which the certificates and charters regulated by this section are valid.

(C) The executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical<u>, fire, and transportation</u> services, shall issue or renew an instructor certificate to teach the training programs and continuing education classes regulated by this section to any applicant that the executive director determines meets the qualifications established in rules adopted under division (B) of this section, and may take disciplinary action against an instructor certificate holder or applicant in accordance with rules adopted under division (B) of this section.

The executive director, with the advice and counsel of the committee, shall charter or renew the charter of any training program that the executive director determines meets the qualifications established in rules adopted under division (B) of this section, and may take disciplinary action against the holder of a charter in accordance with rules adopted under division (B) of this section.

(D) The executive director shall issue or renew a fire training certificate for a firefighter, a fire safety inspector, or another position of any fire training certification level approved by the executive director, to any applicant that the executive director determines meets the qualifications established in rules adopted under division (B) of this section and may take disciplinary actions against a certificate holder or applicant in accordance with rules adopted under division (B) of this section.

(E) Certificates issued under this section shall be on a form prescribed by the executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical<u>, fire, and transportation</u> services.

(F)(1) The executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical<u>, fire, and transportation</u> services, shall establish criteria for evaluating the standards maintained by other states and the branches of the United States military for firefighter, fire safety inspector, and fire instructor training programs, and other training programs recognized by the executive director, to determine whether the standards are equivalent to those established under this section and shall establish requirements and procedures for issuing a certificate to each person who presents proof to the executive director of having satisfactorily completed a training program

that meets those standards.

(2) The executive director, with the committee's advice and counsel, shall adopt rules establishing requirements and procedures for issuing a fire training certificate in lieu of completing a chartered training program.

(G) Nothing in this section invalidates any other section of the Revised Code relating to the fire training academy. Section 4765.11 of the Revised Code does not affect any powers and duties granted to the executive director under this section.

Sec. 4765.56. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state board of emergency medical, fire, and transportation services shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate to practice issued pursuant to this chapter.

Sec. 4766.01. As used in this chapter:

(A) "Advanced life support" means treatment described in section 4765.39 of the Revised Code that a paramedic is certified to perform.

(B) "Air medical service organization" means an organization that furnishes, conducts, maintains, advertises, promotes, or otherwise engages in providing medical services with a rotorcraft air ambulance or fixed wing air ambulance.

(C) "Air medical transportation" means the transporting of a patient by rotorcraft air ambulance or fixed wing air ambulance with appropriately licensed and certified medical personnel.

(D) "Ambulance" means any motor vehicle that is specifically designed, constructed, or modified and equipped and is intended to be used to provide basic life support, intermediate life support,

advanced life support, or mobile intensive care unit services and transportation upon the streets or highways of this state of persons who are seriously ill, injured, wounded, or otherwise incapacitated or helpless. "Ambulance" does not include air medical transportation or a vehicle designed and used solely for the transportation of nonstretcher-bound persons, whether hospitalized or handicapped or whether ambulatory or confined to a wheelchair.

(E) "Ambulette" means a motor vehicle that is specifically designed, constructed, or modified and equipped and is intended to be used for transportation upon the streets or highways of this state of persons who require use of a wheelchair.

(F) "Basic life support" means treatment described in section 4765.37 of the Revised Code that an ~~EMT-basic~~ EMT is certified to perform.

(G) "Disaster situation" means any condition or situation described by rule of the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services as a mass casualty, major emergency, natural disaster, or national emergency.

(H) "Emergency medical service organization" means an organization that uses ~~EMTs-basic~~ EMTs, ~~EMTs-I~~ advanced EMTs, or paramedics, or a combination of ~~EMTs-basic~~ EMTs, ~~EMTs-I~~ advanced EMTs, and paramedics, to provide medical care to victims of illness or injury. An emergency medical service organization includes, but is not limited to, a commercial ambulance service organization, a hospital, and a funeral home.

(I) "~~EMT-basic~~ EMT," "~~EMT-I~~ advanced EMT," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

(J) "Fixed wing air ambulance" means a fixed wing aircraft that is specifically designed, constructed, or modified and equipped and is intended to be used as a means of air medical

transportation.

(K) "Intermediate life support" means treatment described in section 4765.38 of the Revised Code that an ~~EMT-I~~ advanced EMT is certified to perform.

(L) "Major emergency" means any emergency event that cannot be resolved through the use of locally available emergency resources.

(M) "Mass casualty" means an emergency event that results in ten or more persons being injured, incapacitated, made ill, or killed.

(N) "Medical emergency" means an unforeseen event affecting an individual in such a manner that a need for immediate care is created.

(O) "Mobile intensive care unit" means an ambulance used only for maintaining specialized or intensive care treatment and used primarily for interhospital transports of patients whose conditions require care beyond the scope of a paramedic as provided in section 4765.39 of the Revised Code.

(P)(1) "Nonemergency medical service organization" means a person that does both of the following:

(a) Provides services to the public on a regular basis for the purpose of transporting individuals who require the use of a wheelchair or are confined to a wheelchair to receive health care services at health care facilities or health care practitioners' offices in nonemergency circumstances;

(b) Provides the services for a fee, regardless of whether the fee is paid by the person being transported, a third party payer, as defined in section 3702.51 of the Revised Code, or any other person or government entity.

(2) "Nonemergency medical service organization" does not

include a health care facility, as defined in section 1751.01 of the Revised Code, that provides ambulette services only to patients of that facility.

(Q) "Nontransport vehicle" means a motor vehicle operated by a licensed emergency medical service organization not as an ambulance, but as a vehicle for providing services in conjunction with the ambulances operated by the organization or other emergency medical service organizations.

(R) "Patient" means any individual who as a result of illness or injury needs medical attention, whose physical or mental condition is such that there is imminent danger of loss of life or significant health impairment, who may be otherwise incapacitated or helpless as a result of a physical or mental condition, or whose physical condition requires the use of a wheelchair.

(S) "Rotorcraft air ambulance" means a helicopter or other aircraft capable of vertical takeoffs, vertical landings, and hovering that is specifically designed, constructed, or modified and equipped and is intended to be used as a means of air medical transportation.

Sec. 4766.03. (A) The ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services shall adopt rules, in accordance with Chapter 119. of the Revised Code, implementing the requirements of this chapter. The rules shall include provisions relating to the following:

(1) Requirements for an emergency medical service organization to receive a permit for an ambulance or nontransport vehicle;

(2) Requirements for an emergency medical service organization to receive a license as a basic life-support, intermediate life-support, advanced life-support, or mobile

intensive care unit organization;

(3) Requirements for a nonemergency medical service organization to receive a permit for an ambulette vehicle;

(4) Requirements for a nonemergency medical service organization to receive a license for an ambulette service;

(5) Requirements for an air medical service organization to receive a permit for a rotorcraft air ambulance or fixed wing air ambulance;

(6) Requirements for licensure of air medical service organizations;

(7) Forms for applications and renewals of licenses and permits;

(8) Requirements for record keeping of service responses made by licensed emergency medical service organizations;

(9) Fee amounts for licenses and permits, and their renewals;

(10) Inspection requirements for licensees' vehicles or aircraft, records, and physical facilities;

(11) Fee amounts for inspections of ambulances, ambulettes, rotorcraft air ambulances, fixed wing air ambulances, and nontransport vehicles;

(12) Requirements for ambulances and nontransport vehicles used by licensed emergency medical service organizations, for ambulette vehicles used by licensed nonemergency medical service organizations, and for rotorcraft air ambulances or fixed wing air ambulances used by licensed air medical service organizations that specify for each type of vehicle or aircraft the types of equipment that must be carried, the communication systems that must be maintained, and the personnel who must staff the vehicle or aircraft;

(13) The level of care each type of emergency medical service

organization, nonemergency medical service organization, and air medical service organization is authorized to provide;

(14) Eligibility requirements for employment as an ambulette driver, including grounds for disqualification due to the results of a motor vehicle law violation check, chemical test, or criminal records check. The rule may require that an applicant for employment as an ambulette driver provide a set of fingerprints to law enforcement authorities if the applicant comes under final consideration for employment.

(15) Any other rules that the board determines necessary for the implementation and enforcement of this chapter.

(B) In the rules for ambulances and nontransport vehicles adopted under division (A)(12) of this section, the board may establish requirements that vary according to whether the emergency medical service organization using the vehicles is licensed as a basic life-support, intermediate life-support, advanced life-support, or mobile intensive care unit organization.

(C) A mobile intensive care unit that is not dually certified to provide advanced life-support and meets the requirements of the rules adopted under this section is not required to carry immobilization equipment, including board splint kits, traction splints, backboards, backboard straps, cervical immobilization devices, cervical collars, stair chairs, folding cots, or other types of immobilization equipment determined by the board to be unnecessary for mobile intensive care units.

A mobile intensive care unit is exempt from the emergency medical technician staffing requirements of section 4765.43 of the Revised Code when it is staffed by at least one physician or registered nurse and another person, designated by a physician, who holds a valid license or certificate to practice in a health care profession, and when at least one of the persons staffing the

mobile intensive care unit is a registered nurse whose training meets or exceeds the training required for a paramedic.

Sec. 4766.04. (A) Except as otherwise provided in this chapter, no person shall furnish, operate, conduct, maintain, advertise, engage in, or propose or profess to engage in the business or service in this state of transporting persons who are seriously ill, injured, or otherwise incapacitated or who require the use of a wheelchair or are confined to a wheelchair unless the person is licensed pursuant to this section.

(B) To qualify for a license as a basic life-support, intermediate life-support, advanced life-support, or mobile intensive care unit organization, an emergency medical service organization shall do all of the following:

(1) Apply for a permit for each ambulance and nontransport vehicle owned or leased as provided in section 4766.07 of the Revised Code;

(2) Meet all requirements established in rules adopted by the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services regarding ambulances and nontransport vehicles, including requirements pertaining to equipment, communications systems, staffing, and level of care the particular organization is permitted to render;

(3) Maintain the appropriate type and amount of insurance as specified in section 4766.06 of the Revised Code;

(4) Meet all other requirements established under rules adopted by the board for the particular license.

(C) To qualify for a license to provide ambulette service, a nonemergency medical service organization shall do all of the following:

(1) Apply for a permit for each ambulette owned or leased as

provided in section 4766.07 of the Revised Code;

(2) Meet all requirements established in rules adopted by the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services regarding ambulettes, including requirements pertaining to equipment, communication systems, staffing, and level of care the organization is permitted to render;

(3) Maintain the appropriate type and amount of insurance as specified in section 4766.06 of the Revised Code;

(4) Meet all other requirements established under rules adopted by the board for the license.

(D) To qualify for a license to provide air medical transportation, an air medical service organization shall do all of the following:

(1) Apply for a permit for each rotorcraft air ambulance and fixed wing air ambulance owned or leased as provided in section 4766.07 of the Revised Code;

(2) Meet all requirements established in rules adopted by the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services regarding rotorcraft air ambulances and fixed wing air ambulances, including requirements pertaining to equipment, communication systems, staffing, and level of care the organization is permitted to render;

(3) Maintain the appropriate type and amount of insurance as specified in section 4766.06 of the Revised Code;

(4) Meet all other requirements established under rules adopted by the board for the license.

(E) An emergency medical service organization that applies for a license as a basic life-support, intermediate life-support, advanced life-support, or mobile intensive care unit organization; a nonemergency medical service organization that applies for a

license to provide ambulette service; or an air medical service organization that applies for a license to provide air medical transportation shall submit a completed application to the board, on a form provided by the board for each particular license, together with the appropriate fees established under section 4766.05 of the Revised Code. The application form shall include all of the following:

(1) The name and business address of the operator of the organization for which licensure is sought;

(2) The name under which the applicant will operate the organization;

(3) A list of the names and addresses of all officers and directors of the organization;

(4) For emergency medical service organizations and nonemergency medical service organizations, a description of each vehicle to be used, including the make, model, year of manufacture, mileage, vehicle identification number, and the color scheme, insignia, name, monogram, or other distinguishing characteristics to be used to designate the applicant's vehicle;

(5) For air medical service organizations using fixed wing air ambulances, a description of each aircraft to be used, including the make, model, year of manufacture, and aircraft hours on airframe;

(6) For air medical service organizations using rotorcraft air ambulances, a description of each aircraft to be used, including the make, model, year of manufacture, aircraft hours on airframe, aircraft identification number, and the color scheme, insignia, name, monogram, or other distinguishing characteristics to be used to designate the applicant's rotorcraft air ambulance;

(7) The location and description of each place from which the organization will operate;

(8) A description of the geographic area to be served by the applicant;

(9) Any other information the board, by rule, determines necessary.

(F) Within sixty days after receiving a completed application for licensure as a basic life-support, intermediate life-support, advanced life-support, or mobile intensive care unit organization; an ambulette service; or an air medical service organization, the board shall approve or deny the application. The board shall deny an application if it determines that the applicant does not meet the requirements of this chapter or any rules adopted under it. The board shall send notice of the denial of an application by certified mail to the applicant. The applicant may request a hearing within ten days after receipt of the notice. If the board receives a timely request, it shall hold a hearing in accordance with Chapter 119. of the Revised Code.

(G) If an applicant or licensee operates or plans to operate an organization in more than one location under the same or different identities, the applicant or licensee shall apply for and meet all requirements for licensure or renewal of a license, other than payment of a license fee or renewal fee, for operating the organization at each separate location. An applicant or licensee that operates or plans to operate under the same organization identity in separate locations shall pay only a single license fee.

(H) An emergency medical service organization that wishes to provide ambulette services to the public must apply for a separate license under division (C) of this section.

(I) Each license issued under this section and each permit issued under section 4766.07 of the Revised Code expires one year after the date of issuance and may be renewed in accordance with

the standard renewal procedures of Chapter 4745. of the Revised Code. An application for renewal shall include the license or permit renewal fee established under section 4766.05 of the Revised Code. An applicant for renewal of a permit also shall submit to the board proof of an annual inspection of the vehicle or aircraft for which permit renewal is sought. The board shall renew a license if the applicant meets the requirements for licensure and shall renew a permit if the applicant and vehicle or aircraft meet the requirements to maintain a permit for that vehicle or aircraft.

(J) Each licensee shall maintain accurate records of all service responses conducted. The records shall be maintained on forms prescribed by the board and shall contain information as specified by rule by the board.

Sec. 4766.05. (A) The ~~Ohio~~ state board of emergency medical~~,~~ fire, and transportation ~~board~~ services shall establish by rule a license fee, a permit fee for each ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle owned or leased by the licensee that is or will be used as provided in section 4766.07 of the Revised Code, and fees for renewals of licenses and permits, taking into consideration the actual costs incurred by the board in carrying out its duties under this chapter. However, the fee for each license and each renewal of a license shall not exceed one hundred dollars, and the fee for each permit and each renewal of a permit shall not exceed one hundred dollars for each ambulance, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle. The ~~fee for each permit and each renewal of a permit shall be twenty-five dollars for each ambulette for one year after March 9, 2004. Thereafter, the~~ board shall determine by rule the fee, which shall not exceed fifty dollars, for each permit and each renewal of a permit for each ambulette. For

purposes of establishing fees, "actual costs" includes the costs of salaries, expenses, inspection equipment, supervision, and program administration.

(B) The board shall deposit all fees and other moneys collected pursuant to sections 4766.04, 4766.07, and 4766.08 of the Revised Code in the state treasury to the credit of the ~~occupational licensing~~ trauma and ~~regulatory~~ emergency medical services fund, which is created by section ~~4743.05~~ 4513.263 of the Revised Code. ~~All moneys from the fund shall be used solely for the salaries and expenses of the board incurred in implementing and enforcing this chapter.~~

(C) The board, subject to the approval of the controlling board, may establish fees in excess of the maximum amounts allowed under division (A) of this section, but such fees shall not exceed those maximum amounts by more than fifty per cent.

Sec. 4766.07. (A) Except as otherwise provided by rule of the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services, each emergency medical service organization, nonemergency medical service organization, and air medical service organization subject to licensure under this chapter shall possess a valid permit for each ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle it owns or leases that is or will be used by the licensee to perform the services permitted by the license. Each licensee and license applicant shall submit the appropriate fee and an application for a permit for each ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle to the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services on forms provided by the board. The application shall include documentation that the vehicle or aircraft meets the appropriate standards set by the board, that the vehicle or

aircraft has been inspected pursuant to division (C) of this section, that the permit applicant maintains insurance as provided in section 4766.06 of the Revised Code, and that the vehicle or aircraft and permit applicant meet any other requirements established under rules adopted by the board.

The ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services may adopt rules in accordance with Chapter 119. of the Revised Code to authorize the temporary use of a vehicle or aircraft for which a permit is not possessed under this section in back-up or disaster situations.

(B)(1) Within sixty days after receiving a completed application for a permit, the board shall issue or deny the permit. The board shall deny an application if it determines that the permit applicant, vehicle, or aircraft does not meet the requirements of this chapter and the rules adopted under it that apply to permits for ambulances, ambulettes, rotorcraft air ambulances, fixed wing air ambulances, and nontransport vehicles. The board shall send notice of the denial of an application by certified mail to the permit applicant. The permit applicant may request a hearing within ten days after receipt of the notice. If the board receives a timely request, it shall hold a hearing in accordance with Chapter 119. of the Revised Code.

(2) If the board issues the vehicle permit for an ambulance, ambulette, or nontransport vehicle, it also shall issue a decal, in a form prescribed by rule, to be displayed on the rear window of the vehicle. The board shall not issue a decal until all of the requirements for licensure and permit issuance have been met.

(3) If the board issues the aircraft permit for a rotorcraft air ambulance or fixed wing air ambulance, it also shall issue a decal, in a form prescribed by rule, to be displayed on the left fuselage aircraft window in a manner that complies with all

applicable federal aviation regulations. The board shall not issue a decal until all of the requirements for licensure and permit issuance have been met.

(C) In addition to any other requirements that the board establishes by rule, a licensee or license applicant applying for an initial vehicle or aircraft permit under division (A) of this section shall submit to the board the vehicle or aircraft for which the permit is sought. Thereafter, a licensee shall annually submit to the board each vehicle or aircraft for which a permit has been issued.

(1) The board shall conduct a physical inspection of an ambulance, ambulette, or nontransport vehicle to determine its roadworthiness and compliance with standard motor vehicle requirements.

(2) The board shall conduct a physical inspection of the medical equipment, communication system, and interior of an ambulance to determine the operational condition and safety of the equipment and the ambulance's interior and to determine whether the ambulance is in compliance with the federal requirements for ambulance construction that were in effect at the time the ambulance was manufactured, as specified by the general services administration in the various versions of its publication titled "federal specification for the star-of-life ambulance, KKK-A-1822."

(3) The board shall conduct a physical inspection of the equipment, communication system, and interior of an ambulette to determine the operational condition and safety of the equipment and the ambulette's interior and to determine whether the ambulette is in compliance with state requirements for ambulette construction. The board shall determine by rule requirements for the equipment, communication system, interior, and construction of an ambulette.

(4) The board shall conduct a physical inspection of the medical equipment, communication system, and interior of a rotorcraft air ambulance or fixed wing air ambulance to determine the operational condition and safety of the equipment and the aircraft's interior.

(5) The board shall issue a certificate to the applicant for each vehicle or aircraft that passes the inspection and may assess a fee for each inspection, as established by the board.

(6) The board shall adopt rules regarding the implementation and coordination of inspections. The rules may permit the board to contract with a third party to conduct the inspections required of the board under this section.

Sec. 4766.08. (A) The ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board may~~ services, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license or permit or renewal thereof issued under this chapter for any one or combination of the following causes:

(1) Violation of this chapter or any rule adopted thereunder;

(2) Refusal to permit the board to inspect a vehicle or aircraft used under the terms of a permit or to inspect the records or physical facilities of a licensee;

(3) Failure to meet the ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle requirements specified in this chapter or the rules adopted thereunder;

(4) Violation of an order issued by the board;

(5) Failure to comply with any of the terms of an agreement entered into with the board regarding the suspension or revocation of a license or permit or the imposition of a penalty under this

section.

(B) If the board determines that the records, record-keeping procedures, or physical facilities of a licensee, or an ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle for which a valid permit has been issued, do not meet the standards specified in this chapter and the rules adopted thereunder, the board shall notify the licensee of any deficiencies within thirty days of finding the deficiencies. If the board determines that the deficiencies exist and they remain uncorrected after thirty days, the board may suspend the license, vehicle permit, or aircraft permit. The licensee, notwithstanding the suspension under this division, may operate until all appeals have been exhausted.

(C) At the discretion of the board, a licensee whose license has been suspended or revoked under this section may be ineligible to be licensed under this chapter for a period of not more than three years from the date of the violation, provided that the board shall make no determination on a period of ineligibility until all the licensee's appeals relating to the suspension or revocation have been exhausted.

(D) The board may, in addition to any other action taken under this section and after a hearing conducted pursuant to Chapter 119. of the Revised Code, impose a penalty of not more than fifteen hundred dollars for any violation specified in this section. The attorney general shall institute a civil action for the collection of any such penalty imposed.

Sec. 4766.09. This chapter does not apply to any of the following:

(A) A person rendering services with an ambulance in the event of a disaster situation when licensees' vehicles based in the locality of the disaster situation are incapacitated or

insufficient in number to render the services needed;

(B) Any person operating an ambulance, ambulette, rotorcraft air ambulance, or fixed wing air ambulance outside this state unless receiving a person within this state for transport to a location within this state;

(C) A publicly owned or operated emergency medical service organization and the vehicles it owns or leases and operates, except as provided in section 307.051, division (G) of section 307.055, division (F) of section 505.37, division (B) of section 505.375, and division (B)(3) of section 505.72 of the Revised Code;

(D) An ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle owned or leased and operated by the federal government;

(E) A publicly owned and operated fire department vehicle;

(F) Emergency vehicles owned by a corporation and operating only on the corporation's premises, for the sole use by that corporation;

(G) An ambulance, nontransport vehicle, or other emergency medical service organization vehicle owned and operated by a municipal corporation;

(H) A motor vehicle titled in the name of a volunteer rescue service organization, as defined in section 4503.172 of the Revised Code;

(I) A public emergency medical service organization;

(J) A fire department, rescue squad, or life squad comprised of volunteers who provide services without expectation of remuneration and do not receive payment for services other than reimbursement for expenses;

(K) A private, nonprofit emergency medical service

organization when fifty per cent or more of its personnel are volunteers, as defined in section 4765.01 of the Revised Code;

(L) Emergency medical service personnel who are regulated by the state board of emergency medical<u>, fire, and transportation</u> services under Chapter 4765. of the Revised Code;

(M) Any of the following that operates a transit bus, as that term is defined in division (Q) of section 5735.01 of the Revised Code, unless the entity provides ambulette services that are reimbursed under the state medicaid plan:

(1) A public nonemergency medical service organization;

(2) An urban or rural public transit system;

(3) A private nonprofit organization that receives grants under section 5501.07 of the Revised Code.

(N)(1) An entity, to the extent it provides ambulette services, if the entity meets all of the following conditions:

(a) The entity is certified by the department of aging or the department's designee in accordance with section 173.391 of the Revised Code or operates under a contract or grant agreement with the department or the department's designee in accordance with section 173.392 of the Revised Code.

(b) The entity meets the requirements of section 4766.14 of the Revised Code.

(c) The entity does not provide ambulette services that are reimbursed under the state medicaid plan.

(2) A vehicle, to the extent it is used to provide ambulette services, if the vehicle meets both of the following conditions:

(a) The vehicle is owned by an entity that meets the conditions specified in division (N)(1) of this section.

(b) The vehicle does not provide ambulette services that are

reimbursed under the state medicaid plan.

(O) A vehicle that meets both of the following criteria, unless the vehicle provides services that are reimbursed under the state medicaid plan:

(1) The vehicle was purchased with funds from a grant made by the United States secretary of transportation under 49 U.S.C. 5310;

(2) The department of transportation holds a lien on the vehicle.

Sec. 4766.10. This chapter does not invalidate any ordinance or resolution adopted by a municipal corporation that establishes standards for the licensure of emergency medical service organizations as basic life-support, intermediate life-support, or advanced life-support service organizations that have their principal places of business located within the limits of the municipal corporation, as long as the licensure standards meet or exceed the standards established in this chapter and the rules adopted thereunder.

Emergency medical service organizations licensed by a municipal corporation are subject to the jurisdiction of the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services, but the fees they pay to the board for licenses, permits, and renewals thereof shall not exceed fifty per cent of the fee amounts established by the board pursuant to section 4766.03 of the Revised Code. The board may choose to waive the vehicle inspection requirements and inspection fees, but not the permit fees, for the vehicles of organizations licensed by a municipal corporation.

Sec. 4766.11. (A) The ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services may investigate alleged

violations of this chapter or the rules adopted under it and may investigate any complaints received regarding alleged violations.

In addition to any other remedies available and regardless of whether an adequate remedy at law exists, the board may apply to the court of common pleas in the county where a violation of any provision of this chapter or any rule adopted pursuant thereto is occurring for a temporary or permanent injunction restraining a person from continuing to commit that violation. On a showing that a person has committed a violation, the court shall grant the injunction.

In conducting an investigation under this section, the board may issue subpoenas compelling the attendance and testimony of witnesses and the production of books, records, and other documents pertaining to the investigation. If a person fails to obey a subpoena from the board, the board may apply to the court of common pleas in the county where the investigation is being conducted for an order compelling the person to comply with the subpoena. On application by the board, the court shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena from the court or a refusal to testify therein.

(B) The ~~medical transportation~~ board may suspend a license issued under this chapter without a prior hearing if it determines that there is evidence that the license holder is subject to action under this section and that there is clear and convincing evidence that continued operation by the license holder presents a danger of immediate and serious harm to the public. The chairperson and executive director of the board shall make a preliminary determination and describe the evidence on which they made their determination to the board members. The board by resolution may designate another board member to act in place of

the chairperson or another employee to act in place of the executive director in the event that the chairperson or executive director is unavailable or unable to act. Upon review of the allegations, the board, by the affirmative vote of ~~at least four~~ a majority of its members, may suspend the license without a hearing.

~~Any method of communication, including a telephone conference call, may be utilized for describing the evidence to the board members, for reviewing the allegations, and for voting on the suspension.~~

Immediately following the decision by the board to suspend a license under this division, the board shall issue a written order of suspension and cause it to be delivered in accordance with section 119.07 of the Revised Code. If the license holder subject to the suspension requests an adjudication hearing by the board, the date set for the adjudication shall be within fifteen days but not earlier than seven days after the request unless another date is agreed to by the license holder and the board.

Any summary suspension imposed under this division remains in effect, unless reversed by the board, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order not less than ninety days after completion of its adjudication hearing. Failure to issue the order by that day shall cause the summary suspension order to end, but such failure shall not affect the validity of any subsequent final adjudication order.

Sec. 4766.12. If a county, township, joint ambulance district, or joint emergency medical services district chooses to have the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services license its emergency medical

service organizations and issue permits for its vehicles pursuant to this chapter, except as may be otherwise provided, all provisions of this chapter and all rules adopted by the board thereunder are fully applicable. However, a county, township, joint ambulance district, or joint emergency medical services district is not required to obtain any type of permit from the board for any of its nontransport vehicles.

Sec. 4766.13. The ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services, by endorsement, may license and issue vehicle permits to an emergency medical service organization or a nonemergency medical service organization that is regulated by another state. To qualify for a license and vehicle permits by endorsement, an organization must submit evidence satisfactory to the board that it has met standards in another state that are equal to or more stringent than the standards established by this chapter and the rules adopted under it.

Sec. 4766.15. (A) An applicant for employment as an ambulette driver with an organization licensed pursuant to this chapter shall submit proof to the organization of, or give consent to the employer to obtain, all of the following:

(1)(a) A valid driver's license issued pursuant to Chapter 4506. or 4507. of the Revised Code, or its equivalent, if the applicant is a resident of another state;

(b) A recent certified abstract of the applicant's record of convictions for violations of motor vehicle laws provided by the registrar of motor vehicles pursuant to section 4509.05 of the Revised Code, or its equivalent, if the applicant is a resident of another state.

(2)(a) A certificate of completion of a course in first aid

techniques offered by the American red cross or an equivalent organization;

(b) A certificate of completion of a course in cardiopulmonary resuscitation, or its equivalent, offered by an organization approved by the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services.

(3) The result of a chemical test or tests of the applicant's blood, breath, or urine conducted at a hospital or other institution approved by the board for the purpose of determining the alcohol, drug of abuse, controlled substance, or metabolite of a controlled substance content of the applicant's whole blood, blood serum or plasma, breath, or urine;

(4) The result of a criminal records check conducted by the bureau of criminal identification and investigation.

(B) An organization may employ an applicant on a temporary provisional basis pending the completion of all of the requirements of this section. The length of the provisional period shall be determined by the board.

(C) An organization licensed pursuant to this chapter shall use information received pursuant to this section to determine in accordance with rules adopted by the ~~Ohio~~ state board of emergency medical, fire, and transportation ~~board~~ services under section 4766.03 of the Revised Code whether an applicant is disqualified for employment.

No applicant shall be accepted for permanent employment as an ambulette driver by an organization licensed pursuant to this chapter until all of the requirements of division (A) of this section have been met.

Sec. 4766.22. (A) Not later than forty-five days after the end of each fiscal year, the ~~Ohio~~ state board of emergency

medical, fire, and transportation ~~board~~ services shall submit a report to the governor and general assembly that provides all of the following information for that fiscal year:

(1) The number of each of the following the board issued:

(a) Basic life-support organization licenses;

(b) Intermediate life-support organization licenses;

(c) Advanced life-support organization licenses;

(d) Mobile intensive care unit organization licenses;

(e) Ambulette service licenses;

(f) Air medical service organization licenses;

(g) Ambulance permits;

(h) Nontransport vehicle permits;

(i) Ambulette vehicle permits;

(j) Rotorcraft air ambulance permits;

(k) Fixed wing air ambulance permits.

(2) The amount of fees the board collected for issuing and renewing each type of license and permit specified in division (A)(1) of this section;

(3) The number of inspections the board or a third party on the board's behalf conducted in connection with each type of license and permit specified in division (A)(1) of this section and the amount of fees the board collected for the inspections;

(4) The number of complaints that were submitted to the board;

(5) The number of investigations the board conducted under section 4766.11 of the Revised Code;

(6) The number of adjudication hearings the board held and the outcomes of the adjudications;

(7) The amount of penalties the board imposed and collected under section 4766.08 of the Revised Code;

(8) Other information the board determines reflects the board's operations.

(B) The board shall post the annual report required by this section on its web site and make it available to the public on request.

Sec. 4773.08. The ~~public~~ director of health ~~council~~ shall adopt rules to implement and administer this chapter. In adopting the rules, the ~~council~~ director shall consider any recommendations made by the radiation advisory council created under section 3701.93 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall not be less stringent than any applicable standards specified in 42 C.F.R. 75. The rules shall establish all of the following:

(A) Standards for licensing general x-ray machine operators, radiographers, radiation therapy technologists, and nuclear medicine technologists;

(B) Application and renewal fees for licenses issued under this chapter that do not exceed the cost incurred in issuing and renewing the licenses;

(C) Standards for accreditation of educational programs and approval of continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology;

(D) Fees for accrediting educational programs and approving continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology that do not exceed the cost incurred in accrediting the educational programs;

(E) Fees for issuing conditional licenses under section 4773.05 of the Revised Code that do not exceed the cost incurred in issuing the licenses;

(F) Continuing education requirements that must be met to have a license renewed under section 4773.03 of the Revised Code;

(G) Continuing education requirements that the holder of a conditional license must meet to receive a license issued under section 4773.03 of the Revised Code;

(H) Any other rules necessary for the implementation or administration of this chapter.

Sec. 4781.01. As used in this chapter:

(A) "Industrialized unit" has the same meaning as in division (C)(3) of section 3781.06 of the Revised Code.

(B) "Installation" means any of the following:

(1) The temporary or permanent construction of stabilization, support, and anchoring systems for manufactured housing;

(2) The placement and erection of a manufactured housing unit or components of a unit on a structural support system;

(3) The supporting, blocking, leveling, securing, anchoring, underpinning, or adjusting of any section or component of a manufactured housing unit;

(4) The joining or connecting of all sections or components of a manufactured housing unit.

(C) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(D) "Manufactured home park" ~~has the same meaning as in division (A) of section 3733.01 of the Revised Code~~ means any tract of land upon which three or more manufactured or mobile homes used for habitation are parked, either free of charge or for

revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park. "Manufactured home park" does not include any of the following:

(1) A tract of land used solely for the storage or display for sale of manufactured or mobile homes or solely as a temporary park-camp as defined in section 3729.01 of the Revised Code;

(2) A tract of land that is subdivided and the individual lots are for sale or sold for the purpose of installation of manufactured or mobile homes used for habitation and the roadways are dedicated to the local government authority;

(3) A tract of land within an area that is subject to local zoning authority and subdivision requirements and is subdivided, and the individual lots are for sale or sold for the purpose of installation of manufactured or mobile homes for habitation.

(E) "Manufactured housing" means manufactured homes and mobile homes.

(F) "Manufactured housing installer" means an individual who installs manufactured housing.

(G) "Mobile home" has the same meaning as in division (O) of section 4501.01 of the Revised Code.

(H) "Model standards" means the federal manufactured home installation standards established pursuant to 42 U.S.C. 5404.

(I) "Permanent foundation" has the same meaning as in division (C)(5) of section 3781.06 of the Revised Code.

(J) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(K) "Casual sale" means any transfer of a manufactured home or mobile home by a person other than a manufactured housing

dealer, manufactured housing salesperson, or manufacturer to an ultimate consumer or a person who purchases the home for use as a residence.

(L) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(M) "Manufactured home park operator" ~~has the same meaning as "operator" in section 3733.01 of the Revised Code~~ or "park operator" means the person who has responsible charge of a manufactured home park and who is licensed under sections 4781.26 to 4781.35 of the Revised Code.

(N) "Manufactured housing broker" means any person acting as a selling agent on behalf of an owner of a manufactured home or mobile home that is subject to taxation under section 4503.06 of the Revised Code.

(O) "Manufactured housing dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in manufactured homes or mobile homes.

(P) "Manufacturer" means a person who manufacturers, assembles, or imports manufactured homes or mobile homes.

(Q) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a manufactured home or mobile home to an ultimate purchaser for use as a residence.

(R) "Salesperson" means any individual employed by a manufactured housing dealer or manufactured housing broker to sell, display, and offer for sale, or deal in manufactured homes

or mobile homes for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(S) "Ultimate purchaser" means, with respect to any new manufactured home, the first person, other than a manufactured housing dealer purchasing in the capacity of a manufactured housing dealer, who purchases such new manufactured home for purposes other than resale.

(T) "Tenant" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who does not own the home occupying the lot.

(U) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot.

(V) "Resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. "Resident" includes both tenants and owners.

(W) "Residential premises" means a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident.

(X) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(Y) "Security deposit" means any deposit of money or property to secure performance by the resident under a rental agreement.

(Z) "Development" means any artificial change to improved or

unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a manufactured home park, for which plan review is required under division (A) of section 4781.31 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(AA) "Flood" or "flooding" means either of the following:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source;

(c) Mudslides that are proximately caused by flooding as defined in division (AA)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (AA)(1)(a) of this section.

(BB) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by

flood water.

(CC) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(DD) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood.

(EE) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state.

(FF) "Substantial damage" means damage of any origin sustained by a manufactured or mobile home that is situated in a manufactured home park located in a flood plain when the cost of restoring the home to its condition before the damage occurred will equal or exceed fifty per cent of the market value of the home before the damage occurred.

(GG) "Substantially alter" means a change in the layout or design of a manufactured home park, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities. In the case of manufactured home parks located within a one-hundred-year flood plain, "substantially alter" also includes changes in elevation resulting from the addition of fill, grading, or excavation that may affect flood plain management.

(HH) "Tract" means a contiguous area of land that consists of one or more parcels, lots, or sites that have been separately surveyed regardless of whether the individual parcels, lots, or sites have been recorded and regardless of whether the one or more parcels, lots, or sites are under common or different ownership.

Sec. 4781.02. (A) There is hereby created the manufactured homes commission which consists of nine members, with three

members appointed by the governor, three members appointed by the president of the senate, and three members appointed by the speaker of the house of representatives.

(B)(1) Commission members shall be residents of this state, except for members appointed pursuant to divisions (B)(3)(b) and (B)(4)(a) of this section. Members shall be selected from a list of persons the Ohio manufactured homes association, or any successor entity, recommends, except for appointments made pursuant to division (B)(2) of this section.

(2) The governor shall appoint the following members:

(a) One member to represent the board of building standards, who may be a member of the board or a board employee not in the classified civil service, with an initial term ending December 31, 2007;

(b) One member ~~to represent the department of health, who may be a department employee not in the classified civil service, with an initial term ending December 31, 2005~~ who is registered as a sanitarian in accordance with Chapter 4736. of the Revised Code, has experience with the regulation of manufactured homes, and is an employee of a health district described in section 3709.01 of the Revised Code;

(c) One member whose primary residence is a manufactured home, with an initial term ending December 31, 2006.

(3) The president of the senate shall appoint the following members:

(a) Two members who are manufactured housing installers who have been actively engaged in the installation of manufactured housing for the five years immediately prior to appointment, with the initial term of one installer ending December 31, 2007, and the initial term of the other installer ending December 31, 2005.

(b) One member who manufactures manufactured homes in this state or who manufactures manufactured homes in another state and ships homes into this state, to represent manufactured home manufacturers, with an initial term ending December 31, 2006.

(4) The speaker of the house of representatives shall appoint the following members:

(a) One member who operates a manufactured or mobile home retail business in this state to represent manufactured housing dealers, with an initial term ending December 31, 2007;

(b) One member who is a manufactured home park operator or is employed by an operator, with an initial term ending December 31, 2005;

(c) One member to represent the Ohio manufactured home association, or any successor entity, who may be the president or executive director of the association or the successor entity, with an initial term ending December 31, 2006.

(C)(1) After the initial term, each term of office is for four years ending on the thirty-first day of December. A member holds office from the date of appointment until the end of the term. No member may serve more than two consecutive four-year terms.

(2) Any member appointed to fill a vacancy that occurs prior to the expiration of a term continues in office for the remainder of that term. Any member continues in office subsequent to the expiration date of the term until the member's successor takes office or until sixty days have elapsed, which ever occurs first.

(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers.

(D)(1) The governor may remove any member from office for

incompetence, neglect of duty, misfeasance, nonfeasance, malfeasance, or unprofessional conduct in office.

(2) Vacancies shall be filled in the manner of the original appointment.

Sec. 4781.04. (A) The manufactured homes commission shall adopt rules pursuant to Chapter 119. of the Revised Code to do all of the following:

(1) Establish uniform standards that govern the installation of manufactured housing. Not later than one hundred eighty days after the secretary of the United States department of housing and urban development adopts model standards for the installation of manufactured housing or amends those standards, the commission shall amend its standards as necessary to be consistent with, and not less stringent than, the model standards for the design and installation of manufactured housing the secretary adopts or any manufacturers' standards that the secretary determines are equal to or not less stringent than the model standards.

(2) Govern the inspection of the installation of manufactured housing. The rules shall specify that the commission, any building department or personnel of any department, ~~any licensor or personnel of any licensor,~~ or any private third party, certified pursuant to section 4781.07 of the Revised Code shall conduct all inspections of the installation of manufactured housing located in manufactured home parks to determine compliance with the uniform installation standards the commission establishes pursuant to this section.

~~As used in division (A)(2) of this section, "licensor" has the same meaning as in section 3733.01 of the Revised Code.~~

(3) Govern the design, construction, installation, approval, and inspection of foundations and the base support systems for

manufactured housing. The rules shall specify that the commission, any building department or personnel of any department, ~~any licensor or personnel of any licensor,~~ or any private third party, certified pursuant to section 4781.07 of the Revised Code shall conduct all inspections of the installation, foundations, and base support systems of manufactured housing located in manufactured home parks to determine compliance with the uniform installation standards and foundation and base support system design the commission establishes pursuant to this section.

~~As used in division (A)(3) of this section, "licensor" has the same meaning as in section 3733.01 of the Revised Code.~~

(4) Govern the training, experience, and education requirements for manufactured housing installers, manufactured housing dealers, manufactured housing brokers, and manufactured housing salespersons;

(5) Establish a code of ethics for manufactured housing installers;

(6) Govern the issuance, revocation, and suspension of licenses to manufactured housing installers;

(7) Establish fees for the issuance and renewal of licenses, for conducting inspections to determine an applicant's compliance with this chapter and the rules adopted pursuant to it, and for the commission's expenses incurred in implementing this chapter;

(8) Establish conditions under which a licensee may enter into contracts to fulfill the licensee's responsibilities;

(9) Govern the investigation of complaints concerning any violation of this chapter or the rules adopted pursuant to it or complaints involving the conduct of any licensed manufactured housing installer or person installing manufactured housing without a license, licensed manufactured housing dealer, licensed manufactured housing broker, or manufactured housing salesperson;

(10) Establish a dispute resolution program for the timely resolution of warranty issues involving new manufactured homes, disputes regarding responsibility for the correction or repair of defects in manufactured housing, and the installation of manufactured housing. The rules shall provide for the timely resolution of disputes between manufacturers, manufactured housing dealers, and installers regarding the correction or repair of defects in manufactured housing that are reported by the purchaser of the home during the one-year period beginning on the date of installation of the home. The rules also shall provide that decisions made regarding the dispute under the program are not binding upon the purchaser of the home or the other parties involved in the dispute unless the purchaser so agrees in a written acknowledgement that the purchaser signs and delivers to the program within ten business days after the decision is issued.

(11) Establish the requirements and procedures for the certification of building departments and building department personnel pursuant to section 4781.07 of the Revised Code;

(12) Establish fees to be charged to building departments and building department personnel applying for certification and renewal of certification pursuant to section 4781.07 of the Revised Code;

(13) Develop a policy regarding the maintenance of records for any inspection authorized or conducted pursuant to this chapter. Any record maintained under division (A)(13) of this section shall be a public record under section 149.43 of the Revised Code.

(14) Carry out any other provision of this chapter.

(B) The manufactured homes commission shall do all of the following:

(1) Prepare and administer a licensure examination to

determine an applicant's knowledge of manufactured housing installation and other aspects of installation the commission determines appropriate;

(2) Select, provide, or procure appropriate examination questions and answers for the licensure examination and establish the criteria for successful completion of the examination;

(3) Prepare and distribute any application form this chapter requires;

(4) Receive applications for licenses and renewal of licenses and issue licenses to qualified applicants;

(5) Establish procedures for processing, approving, and disapproving applications for licensure;

(6) Retain records of applications for licensure, including all application materials submitted and a written record of the action taken on each application;

(7) Review the design and plans for manufactured housing installations, foundations, and support systems;

(8) Inspect a sample of homes at a percentage the commission determines to evaluate the construction and installation of manufactured housing installations, foundations, and support systems to determine compliance with the standards the commission adopts;

(9) Investigate complaints concerning violations of this chapter or the rules adopted pursuant to it, or the conduct of any manufactured housing installer, manufactured housing dealer, manufactured housing broker, or manufactured housing salesperson;

(10) Determine appropriate disciplinary actions for violations of this chapter;

(11) Conduct audits and inquiries of manufactured housing installers, manufactured housing dealers, and manufactured housing

brokers as appropriate for the enforcement of this chapter. The commission, or any person the commission employs for the purpose, may review and audit the business records of any manufactured housing installer, dealer, or broker during normal business hours.

(12) Approve an installation training course, which may be offered by the Ohio manufactured homes association or other entity;

(13) Perform any function or duty necessary to administer this chapter and the rules adopted pursuant to it.

(C) Nothing in this section shall be construed to limit the authority of a board of health to enforce section 3701.344 or Chapters 3703., 3718., and 3781. of the Revised Code.

Sec. 4781.07. (A) Pursuant to rules the manufactured homes commission adopts, the commission may certify municipal, township, and county building departments and the personnel of those departments, ~~licensors as defined in section 3733.01 of the Revised Code and the personnel of those licensors,~~ or any private third party, to exercise the commission's enforcement authority, accept and approve plans and specifications for foundations, support systems and installations, and inspect manufactured housing foundations, support systems, and manufactured housing installations. Any certification is effective for three years.

(B) Following an investigation and finding of facts that support its action, the commission may revoke or suspend certification. The commission may initiate an investigation on its own motion or the petition of a person affected by the enforcement or approval of plans.

Sec. 4781.09. (A) The manufactured homes commission may deny, suspend, revoke, or refuse to renew the license of any manufactured home installer for any of the following reasons:

(1) Failure to satisfy the requirements of section 4781.08 or 4781.10 of the Revised Code;

(2) Violation of this chapter or any rule adopted pursuant to it;

(3) Making a material misstatement in an application for a license;

(4) Installing manufactured housing without a license or without being under the supervision of a licensed manufactured housing installer;

(5) Failure to appear for a hearing before the commission or to comply with any final adjudication order of the commission issued pursuant to this chapter;

(6) Conviction of a felony or a crime involving moral turpitude;

(7) Having had a license revoked, suspended, or denied by the commission during the preceding two years;

(8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years;

(9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state.

(10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor.

(B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed ~~pursuant to division (C) of this section~~ may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. The hearing shall be held in accordance with Chapter 119. of the Revised Code.

(2) Any licensee or applicant may appeal an order made

pursuant to an adjudication hearing in the manner provided in section 119.12 of the Revised Code.

(C) ~~As an alternative to suspending, revoking, or refusing to renew a manufactured housing installer's license, the commission may impose a civil penalty of not less than one hundred dollars or more than five hundred dollars per violation of this chapter or any rule adopted pursuant to it. The commission shall deposit penalties in the occupational licensing and regulatory fund pursuant to section 4743.05 of the Revised Code.~~

~~(D)~~ A person whose license is suspended, revoked, or not renewed may apply for a new license two years after the date on which the license was suspended, revoked, or not renewed.

Sec. 4781.121. (A) The manufactured homes commission, pursuant to section 4781.04 of the Revised Code, may investigate any person who allegedly has committed a violation. If, after an investigation the commission determines that reasonable evidence exists that a person has committed a violation, within seven days after that determination, the commission shall send a written notice to that person in the same manner as prescribed in section 119.07 of the Revised Code for licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing.

(B) The commission shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the commission, after the hearing, determines that a violation has occurred, the commission, upon an affirmative vote of five of its members, may impose a fine not exceeding one thousand dollars per violation per day. The commission's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

(C) If the person who allegedly committed a violation fails to appear for a hearing, the commission may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the commission for a hearing.

(D) If the commission assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the commission pursuant to section 131.02 of the Revised Code, the commission shall forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(E) The authority provided to the commission pursuant to this section, and any fine imposed under this section, shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. Any fines collected pursuant to this section shall be used solely to administer and enforce this chapter and rules adopted under it. Any fees collected pursuant to this section shall be transmitted to the treasurer of state and shall be credited to the manufactured homes commission regulatory fund created in section 4781.54 of the Revised Code and the rules adopted thereunder. The fees shall be used only for the purpose of administering and enforcing sections 4781.26 to 4781.35 of the Revised Code and the rules adopted thereunder.

(F) As used in this section, "violation" means a violation of section 4781.11, 4781.16, or 4781.27, or any rule adopted pursuant to section 4781.04, of the Revised Code.

Sec. 4781.14. (A) ~~Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the state, through the~~ The manufactured homes commission, has exclusive authority to regulate

manufactured home installers, the installation of manufactured housing, and manufactured housing foundations and support systems in ~~the~~ this state. By enacting this chapter, it is the intent of the general assembly to preempt municipal corporations and other political subdivisions from regulating and licensing manufactured housing installers and regulating and inspecting the installation of manufactured housing and manufactured housing foundations and support systems.

(B) ~~Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the~~ The manufactured homes commission has exclusive power to adopt rules of uniform application throughout the state governing installation of manufactured housing, the inspection of manufactured housing foundations and support systems, the inspection of the installation of manufactured housing, the training and licensing of manufactured housing installers, and the investigation of complaints concerning manufactured housing installers.

(C) ~~Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the~~ The rules the commission adopts pursuant to this chapter are the exclusive rules governing the installation of manufactured housing, the design, construction, and approval of foundations for manufactured housing, the licensure of manufactured home installers, and the fees charged for licensure of manufactured home installers. No political subdivision of the state or any department or agency of the state may establish any other standards governing the installation of manufactured housing, manufactured housing foundations and support systems, the licensure of manufactured housing installers, or fees charged for the licensure of manufactured housing installers.

(D) Nothing in this section limits the authority of the attorney general to enforce Chapter 1345. of the Revised Code or

to take any action permitted by the Revised Code against manufactured housing installers, retailers, or manufacturers.

Sec. 4781.15. The remedies provided in ~~sections 4781.01 to 4781.14 of the Revised Code~~ this chapter are in addition to remedies otherwise available for the same conduct under state or local law.

Sec. 4781.16. (A) Except as provided in division (E) of this section, no person shall do any of the following:

(1) Engage in the business of displaying or selling at retail manufactured homes or mobile homes or assume to engage in that business, unless the person is licensed as a manufactured housing dealer under this chapter, or is a salesperson licensed under this chapter and employed by a licensed manufactured housing dealer;

(2) Make more than five casual sales of manufactured homes or mobile homes in a twelve-month period without obtaining a license as a manufactured housing dealer under this chapter;

(3) Purchase a manufactured home directly from the manufacturer without obtaining a license as a manufactured housing dealer under this chapter;

(4) Engage in the business of brokering manufactured homes unless that person is licensed as a manufactured housing broker under this chapter or licensed as a real estate broker or salesperson pursuant to Chapter 4735. of the Revised Code.

(B)(1) Except as provided in this division, no manufactured housing dealer shall sell, display, offer for sale, or deal in manufactured homes or mobile homes at any place except an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in manufactured homes or mobile homes.

(2) No manufactured housing broker shall engage in the business of brokering manufactured or mobile homes at any place except an established place of business that is used exclusively for the purpose of brokering manufactured and mobile homes.

(3) A place of business used for the brokering or sale of manufactured homes or mobile homes is considered to be used exclusively for brokering, selling, displaying, offering for sale, or dealing in manufactured or mobile homes even though industrialized units, as defined by section 3781.06 of the Revised Code, are brokered, sold, displayed, offered for sale, or dealt at the same place of business.

(4) If the licensed manufactured housing dealer is a manufactured home park operator, then all of the following apply:

(a) An established place of business that is located in the operator's manufactured home park and that is used for selling, leasing, and renting manufactured homes and mobile homes in that manufactured home park is considered to be used exclusively for that purpose even though rent and other activities related to the operation of the manufactured home park take place at the same location or office.

(b) The dealer's established place of business in the manufactured home park shall be staffed by someone licensed and regulated under this chapter who could reasonably assist any retail customer with or without an appointment, but such established place of business need not satisfy office size, display lot size, and physical barrier requirements applicable to other used motor vehicle dealers.

(c) The manufactured and mobile homes being offered for sale, lease, or rental by the dealer may be located on individual rental lots inside the operator's manufactured home park.

(C) Nothing in this chapter shall be construed as prohibiting

the sale of a new or used manufactured or mobile home located in a manufactured home park by a licensed manufactured housing dealer.

(D) Nothing in this section shall be construed to prohibit persons licensed under this chapter from making sales calls.

(E)(1) This chapter does not apply to mortgagees selling at retail only those manufactured homes or mobile homes that have come into their possession by a default in the terms of a mortgage contract.

(2) When a partnership licensed under this chapter is dissolved by death, the surviving partners may operate under the manufactured housing dealer license for a period of sixty days, and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by that heir, representative, receiver, or trustee in bankruptcy.

Sec. ~~3733.02~~ 4781.26. (A)~~(1)~~ The ~~public health council~~ manufactured homes commission, subject to Chapter 119. of the Revised Code, shall adopt, and has the exclusive power to adopt, rules of uniform application throughout the state governing the review of plans, issuance of flood plain management permits, and issuance of licenses for manufactured home parks; the location, layout, density, construction, drainage, sanitation, safety, and operation of those parks; and notices of flood events concerning, and flood protection at, those parks. The rules pertaining to flood plain management shall be consistent with and not less stringent than the flood plain management criteria of the national flood insurance program adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended. The rules shall not apply to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

~~(2)~~(B) The rules pertaining to manufactured home parks constructed after June 30, 1971, shall specify that each home must be placed on its lot to provide not less than fifteen feet between the side of one home and the side of another home, ten feet between the end of one home and the side of another home, and five feet between the ends of two homes placed end to end.

~~(3)~~(C) The manufactured homes commission shall determine compliance with the installation, blocking, tiedown, foundation, and base support system standards for manufactured housing located in manufactured home parks adopted by the commission pursuant to section 4781.04 of the Revised Code. All inspections of the installation, blocking, tiedown, foundation, and base support systems of manufactured housing in a manufactured home park that the ~~department of health or a licensor~~ commission conducts shall be conducted by a person ~~who has completed an installation training course approved by~~ the manufactured homes commission certifies pursuant to ~~division (B)(12) of~~ section ~~4781.04~~ 4781.07 of the Revised Code.

~~As used in division (A)(3) of this section, "manufactured housing" has the same meaning as in section 4781.01 of the Revised Code.~~

~~(B) The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state establishing requirements and procedures in accordance with which the director of health may authorize licensors for the purposes of sections 3733.022 and 3733.025 of the Revised Code. The rules shall include at least provisions under which a licensor may enter into contracts for the purpose of fulfilling the licensor's responsibilities under either or both of those sections.~~

(D) The manufactured homes commission may enter into contracts for the purpose of fulfilling the commission's annual

inspection responsibilities for manufactured home parks under this chapter. Boards of health of city or general health districts shall have the right of first refusal for those contracts.

Sec. ~~3733.03~~ 4781.27. (A)(1) On or after the first day of December, but before the first day of January of the next year, every person who intends to operate a manufactured home park shall procure a license to operate the park for the next year from the ~~licensor~~ manufactured homes commission. If the applicable license fee prescribed under section ~~3733.04~~ 4781.28 of the Revised Code is not received by the ~~licensor~~ commission by the close of business on the last day of December, the applicant for the license shall pay a penalty equal to twenty-five per cent of the applicable license fee. The penalty shall accompany the license fee. If the last day of December is not a business day, the penalty attaches upon the close of business on the next business day.

(2) No manufactured home park shall be maintained or operated in this state without a license.

(3) No person who has received a license, upon the sale or disposition of the manufactured home park, may have the license transferred to the new operator. A person shall obtain a separate license to operate each manufactured home park.

(B) Before a license is initially issued and annually thereafter, or more often if necessary, the ~~licensor~~ commission shall cause each manufactured home park to be inspected ~~relative to~~ for compliance with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and the rules adopted under those sections. A record shall be made of each inspection on a form prescribed by the ~~director of health~~ commission.

(C) Each person applying for an initial license to operate a manufactured home park shall provide acceptable proof to the

~~director~~ commission that adequate fire protection will be provided and that applicable fire codes will be adhered to in the construction and operation of the park.

Sec. ~~3733.04~~ 4781.28. The ~~licensor of a manufactured home park~~ manufactured homes commission may charge a fee for an annual license to operate ~~such~~ a manufactured home park. The fee for a license shall be determined in accordance with section ~~3709.09~~ 4781.26 of the Revised Code and shall include the cost of licensing and all inspections.

~~The fee also shall include any additional amount determined by rule of the public health council, which shall be collected and transmitted by the board of health to the director of health pursuant to section 3709.092 of the Revised Code and used only for the purpose of administering and enforcing sections 3733.01 to 3733.08 of the Revised Code and the rules adopted under those sections. The portion of any fee retained by the board of health~~ Any fees collected shall be ~~paid into a special fund~~ transmitted to the treasurer of state and shall be credited to the manufactured homes commission regulatory fund created in section 4781.54 of the Revised Code and used only for the purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and the rules adopted thereunder.

Sec. ~~3733.05~~ 4781.29. The ~~licensor of the health district in which a manufactured home park is or is to be located, in accordance with Chapter 119. of the Revised Code,~~ manufactured homes commission may refuse to grant, may suspend, or may revoke any license granted to any person for failure to comply with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or with any rule adopted ~~by the public health council~~ under section ~~3733.02~~ 4781.26 of the Revised Code.

Sec. ~~3733.06~~ 4781.30. (A) Upon a license being issued under sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code, any operator shall have the right to rent or use each lot for the parking or placement of a manufactured home or mobile home to be used for human habitation without interruption for any period coextensive with any license or consecutive licenses issued under sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code.

(B) No operator of a manufactured home park shall sell individual lots in a park for eight years following the issuance of the initial license for the park unless, at the time of sale, the park fulfills all platting and subdivision requirements established by the political subdivision in which the park is located, or the political subdivision has entered into an agreement with the operator regarding platting and subdivision requirements and the operator has fulfilled the terms of that agreement.

Sec. ~~3733.07~~ 4781.301. Fees authorized or charged under sections ~~3733.021, 3733.022~~ 4781.31, 4781.32, and ~~3733.04~~ 4781.28 of the Revised Code are in lieu of all license and inspection fees on or with respect to the operation or ownership of manufactured home parks within this state, except that the licensor may charge additional reasonable fees for the collection and bacteriological examination of any necessary water samples taken from any such park.

Sec. ~~3733.021~~ 4781.31. (A) No person shall cause development to occur within any portion of a manufactured home park until the plans for the development have been submitted to and reviewed and approved by the ~~director of health~~ manufactured homes commission. This division does not require that plans be submitted to the ~~director~~ commission for approval for the replacement of

manufactured or mobile homes on previously approved lots in a manufactured home park when no development is to occur in connection with the replacement. Within thirty days after receipt of the plans, all supporting documents and materials required to complete the review, and the applicable plan review fee established under division (D) of this section, the ~~director~~ commission shall approve or disapprove the plans.

(B) Any person aggrieved by the ~~director's~~ commission's disapproval of a set of plans under division (A) of this section may request a hearing on the matter within thirty days after receipt of the ~~director's~~ commission's notice of the disapproval. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, the disapproval may be appealed in the manner provided in section 119.12 of the Revised Code.

(C) The ~~director~~ commission shall establish a system by which development occurring within a manufactured home park is inspected or verified in accordance with rules adopted under ~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code to ensure that the development complies with the plans approved under division (A) of this section.

(D) The ~~public health council~~ commission shall establish fees for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section.

(E) The ~~director~~ commission shall charge the appropriate fees established under division (D) of this section for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section. All such plan review and inspection fees received by the ~~director~~ commission shall be transmitted to the treasurer of state and shall be credited to the ~~general operations~~ occupational licensing and regulatory fund created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so credited to the fund shall be used only for the purpose of

administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those sections.

(F) Plan approvals issued under this section do not constitute an exemption from the land use and building requirements of the political subdivision in which the manufactured home park is or is to be located.

Sec. ~~3733.022~~ 4781.32. (A) No person shall cause development to occur or cause the replacement of a mobile or manufactured home within any portion of a manufactured home park that is located within a one-hundred-year flood plain unless the person first obtains a permit from the ~~director of health or a licensor authorized by the director~~ manufactured homes commission. If the development for which a permit is required under this division is to occur on a lot where a mobile or manufactured home is or is to be located, the owner of the home and the operator of the manufactured home park shall jointly obtain the permit. Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.

The ~~director or a licensor authorized by the director~~ commission shall disapprove an application for a permit required under this division unless the ~~director or the licensor~~ commission finds that the proposed development or replacement of a mobile or manufactured home complies with the rules adopted under ~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code. No permit is required under this division for the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code applies.

The ~~director or a licensor authorized by the director~~ commission may suspend or revoke a permit issued under this

division for failure to comply with the rules adopted under ~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code pertaining to flood plain management or for failure to comply with the approved permit.

Any person aggrieved by the disapproval, suspension, or revocation of a permit under this division by the ~~director or by a licensor authorized by the director~~ commission may request a hearing on the matter within thirty days after receipt of the notice of the disapproval, suspension, or revocation. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, an appeal of the disapproval, suspension, or revocation may be taken in the manner provided in section 119.12 of the Revised Code.

(B) The ~~public health council~~ commission shall establish fees for the issuance of permits under division (A) of this section and for necessary inspections conducted to determine compliance with those permits.

(C) The ~~director or a licensor authorized by the director~~ commission shall charge the appropriate fee established under division (B) of this section for the issuance of a permit under division (A) of this section or for conducting any necessary inspection to determine compliance with the permit. If the ~~director~~ commission issues such a permit or conducts such an inspection, the fee for the permit or inspection shall be transmitted to the treasurer of state and shall be credited to the ~~general operations~~ occupational licensing and regulatory fund created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so credited to the fund shall be used ~~by the director~~ only for the purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those sections. ~~If the licensor is a board of health, the permit or inspection fee shall be deposited to the credit of the special~~

~~fund of the health district created in section 3733.04 of the Revised Code and shall be used only for the purpose set forth in that section.~~

Sec. ~~3733.024~~ 4781.33. ~~(A)~~ When a flood event affects a manufactured home park, the operator of the manufactured home park, in accordance with rules adopted under ~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code, shall notify the ~~licensor having jurisdiction of the occurrence of~~ manufactured homes commission and the board of health having jurisdiction where the flood event occurred within forty-eight hours after the end of the flood event. The commission, after receiving notification, shall immediately notify the board of health.

~~No person shall fail to comply with this division.~~

~~(B) The licensor having jurisdiction where a flood event occurred that affected a manufactured home park shall notify the director of health of the occurrence of the flood event within twenty-four hours after being notified of the flood event under division (A) of this section. Within forty-eight hours after~~ After being notified of such a flood event ~~by a licensor~~, the ~~director~~ board of health shall cause an inspection to be made of the manufactured home park named in the notice. The board of health shall issue a report of the inspection to the commission within ten days after the inspection is completed.

Sec. ~~3733.025~~ 4781.34. (A) If a mobile or manufactured home that is located in a flood plain is substantially damaged, the owner of the home shall make all alterations, repairs, or changes to the home, and the operator of the manufactured home park shall make all alterations, repairs, or changes to the lot on which the home is located, that are necessary to ensure compliance with the flood plain management rules adopted under ~~division (A) of~~ section

~~3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or changes may include, without limitation, removal of the home or other structures.

No person shall fail to comply with this division.

(B) No person shall cause to be performed any alteration, repair, or change required by division (A) of this section unless the person first obtains a permit from the ~~director of health or a licensor authorized by the director~~ manufactured homes commission. ~~The owner of the home and the operator of the manufactured home park shall jointly obtain the permit required by this division. Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.~~

The ~~director or a licensor authorized by the director~~ commission shall disapprove an application for a permit required under this division unless the ~~director or the licensor~~ commission finds that the proposed alteration, repair, or change complies with the rules adopted under ~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code. No permit is required under this division for the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code applies.

The ~~director or a licensor authorized by the director~~ commission may suspend or revoke a permit issued under this division for failure to comply with the rules adopted under ~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code pertaining to flood plain management or for failure to comply with the approved permit for making alterations, repairs, or changes to the lot on which the manufactured home is located.

Any person aggrieved by the disapproval, suspension, or revocation of a permit under this division by the ~~director or by a licensor authorized by the director~~ commission may request a

hearing on the matter within thirty days after receipt of the notice of the disapproval, suspension, or revocation. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, an appeal of the disapproval, suspension, or revocation may be taken in the manner provided in section 119.12 of the Revised Code and for necessary inspections conducted to determine compliance with those permits.

(C) The ~~public health council~~ commission shall establish fees for the issuance of permits under division (B) of this section and for necessary inspections conducted to determine compliance with those permits for making alterations, repairs, or changes to the lot on which the manufactured home is located.

(D) The ~~director or a licensor authorized by the director~~ commission shall charge the appropriate fee established under division (C) of this section for the issuance of a permit under division (B) of this section or for conducting any necessary inspection to determine compliance with the permit. If the ~~director~~ commission issues such a permit or conducts such an inspection, the fee for the permit or inspection shall be transmitted to the treasurer of state and shall be credited to the ~~general operations~~ occupational licensing and regulatory fund created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so credited to the fund shall be used ~~by the director~~ only for the purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those sections. ~~If the licensor is a board of health, the permit or inspection fee shall be deposited to the credit of the special fund of the health district created in section 3733.04 of the Revised Code and shall be used only for the purpose set forth in that section.~~

Sec. ~~3733.08~~ 4781.35. (A) No person shall violate sections

~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the rules adopted thereunder.

(B) The prosecuting attorney of the county, the city director of law, or the attorney general, upon complaint of the ~~licensor or the director of health~~ manufactured homes commission, shall prosecute to termination or bring an action for injunction against any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the rules adopted thereunder.

Sec. ~~3733.09~~ 4781.36. (A) Subject to section ~~3733.091~~ 4781.37 of the Revised Code, a park operator shall not retaliate against a resident by increasing the resident's rent, decreasing services that are due to the resident, refusing to renew or threatening to refuse to renew the rental agreement with the resident, or bringing or threatening to bring an action for possession of the resident's premises because:

(1) The resident has complained to an appropriate governmental agency of a violation of a building, housing, health, or safety code that is applicable to the premises, and the violation materially affects health and safety;

(2) The resident has complained to the park operator of any violation of section ~~3733.10~~ 4781.38 of the Revised Code;

(3) The resident joined with other residents for the purpose of negotiating or dealing collectively with the park operator on any of the terms and conditions of a rental agreement.

(B) If a park operator acts in violation of division (A) of this section, the resident may:

(1) Use the retaliatory action of the park operator as a defense to an action by the park operator to recover possession of the premises;

(2) Recover possession of the premises;

(3) Terminate the rental agreement.

In addition, the resident may recover from the park operator any actual damages together with reasonable attorneys fees.

(C) Nothing in division (A) of this section prohibits a park operator from increasing the rent to reflect the cost of improvements installed by the park operator in or about the premises or to reflect an increase in other costs of operation of the premises.

Sec. ~~3733.091~~ 4781.37. (A) Notwithstanding section ~~3733.09~~ 4781.36 of the Revised Code, a park operator may bring an action under Chapter 1923. of the Revised Code for possession of the premises if any of the following applies:

(1) The resident is in default in the payment of rent.

(2) The violation of the applicable building, housing, health, or safety code that the resident complained of was primarily caused by any act or lack of reasonable care by the resident, by any other person in the resident's household, or by anyone on the premises with the consent of the resident.

(3) The resident is holding over the resident's term.

(4) The resident is in violation of rules of the ~~public health council~~ manufactured homes commission adopted pursuant to section ~~3733.02~~ 4781.26 of the Revised Code or rules of the manufactured home park adopted pursuant to the rules of the ~~public health council~~ commission.

(5) The resident has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of the action, and the resident's manufactured home, mobile home, or recreational vehicle parked in the manufactured home park has been left unoccupied for that thirty-day period, without notice to the park operator and without payment of rent

due under the rental agreement.

(B) The maintenance of an action by the park operator under this section does not prevent the resident from recovering damages for any violation by the park operator of the rental agreement or of section ~~3733.10~~ 4781.38 of the Revised Code.

Sec. ~~3733.10~~ 4781.38. (A) A park operator who is a party to a rental agreement shall:

(1) Comply with the requirements of all applicable building, housing, health, and safety codes which materially affect health and safety~~,~~ and comply with rules of the ~~public health council~~ manufactured homes commission;

(2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition;

(3) Keep all common areas of the premises in a safe and sanitary condition;

(4) Maintain in good and safe working order and condition all electrical and plumbing fixtures and appliances, and septic systems, sanitary and storm sewers, refuse receptacles, and well and water systems that are supplied or required to be supplied by ~~him~~ the park operator;

(5) Not abuse the right of access conferred by division (B) of section ~~3733.101~~ 4781.39 of the Revised Code;

(6) Except in the case of emergency or if it is impracticable to do so, give the resident reasonable notice of ~~his~~ the park operator's intent to enter onto the residential premises and enter only at reasonable times. Twenty-four hours' notice shall be presumed to be a reasonable notice in the absence of evidence to the contrary.

(B) If the park operator violates any provision of this section, makes a lawful entry onto the residential premises in an

unreasonable manner, or makes repeated demands for entry otherwise lawful which demands have the effect of harassing the resident, the resident may recover actual damages resulting from the violation, entry, or demands and injunctive relief to prevent the recurrence of the conduct, and if ~~he~~ the resident obtains a judgment, reasonable attorneys' fees, or terminate the rental agreement.

Sec. ~~3733.101~~ 4781.39. (A) A resident who is a party to a rental agreement shall:

(1) Keep that part of the premises that the resident occupies and uses safe and sanitary;

(2) Dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner;

(3) Comply with the requirements imposed on residents by all applicable state and local housing, health, and safety codes, rules of the ~~public health council~~ manufactured homes commission, and rules of the manufactured home park;

(4) Personally refrain, and forbid any other person who is on the premises with the resident's permission, from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the residential premises;

(5) Conduct self and require other persons on the premises with the resident's consent to conduct themselves in a manner that will not disturb the resident's neighbors' peaceful enjoyment of the manufactured home park.

(B) The resident shall not unreasonably withhold consent for the park operator to enter the home to inspect utility connections, or enter onto the premises in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels which

are too large for the resident's mail facilities, or supply necessary or agreed services.

(C) If the resident violates any provision of this section, the park operator may recover any actual damages which result from the violation and reasonable attorneys' fees. This remedy is in addition to any right of the park operator to terminate the rental agreement, to maintain an action for the possession of the premises, or injunctive relief to compel access under division (B) of this section.

Sec. ~~3733.11~~ 4781.40. (A)(1) The park operator shall offer each home owner a written rental agreement for a manufactured home park lot for a term of one year or more that contains terms essentially the same as any alternative month-to-month rental agreement offered to current and prospective tenants and owners. The park operator shall offer the minimum one-year rental agreement to the owner prior to installation of the home in the manufactured home park or, if the home is in the manufactured home park, prior to the expiration of the owner's existing rental agreement.

(2) The park operator shall deliver the offer to the owner by certified mail, return receipt requested, or in person. If the park operator delivers the offer to the owner in person, the owner shall complete a return showing receipt of the offer. If the owner does not accept the offer, the park operator is discharged from any obligation to make any further such offers. If the owner accepts the offer, the park operator shall, at the expiration of each successive rental agreement, offer the owner another rental agreement, for a term that is mutually agreed upon, and that contains terms essentially the same as the alternative month-to-month agreement. The park operator shall deliver subsequent rental offers by ordinary mail or personal delivery. If

the park operator sells the manufactured home park to another manufactured home park operator, the purchaser is bound by the rental agreements entered into by the purchaser's predecessor.

(3) If the park operator sells the manufactured home park for a use other than as a manufactured home park, the park operator shall give each tenant and owner a written notification by certified mail, return receipt requested, or by handing it to the tenant or owner in person. If the park operator delivers the notification in person, the recipient shall complete a return showing receipt of the notification. This notification shall contain notice of the sale of the manufactured home park, and notice of the date by which the tenant or owner shall vacate. The date by which the tenant shall vacate shall be at least one hundred twenty days after receipt of the written notification, and the date by which the owner shall vacate shall be at least one hundred eighty days after receipt of the written notification.

(B) A park operator shall fully disclose in writing all fees, charges, assessments, including rental fees, and rules prior to a tenant or owner executing a rental agreement and assuming occupancy in the manufactured home park. No fees, charges, assessments, or rental fees so disclosed may be increased nor rules changed by a park operator without specifying the date of implementation of the changed fees, charges, assessments, rental fees, or rules, which date shall be not less than thirty days after written notice of the change and its effective date to all tenants or owners in the manufactured home park, and no fee, charge, assessment, or rental fee shall be increased during the term of any tenant's or owner's rental agreement. Failure on the part of the park operator to fully disclose all fees, charges, or assessments shall prevent the park operator from collecting the undisclosed fees, charges, or assessments. If a tenant or owner refuses to pay any undisclosed fees, charges, or assessments, the

refusal shall not be used by the park operator as a cause for eviction in any court.

(C) A park operator shall promulgate rules governing the rental or occupancy of a lot in the manufactured home park. The rules shall not be unreasonable, arbitrary, or capricious. A copy of the rules and any amendments to them shall be delivered by the park operator to the tenant or owner prior to signing the rental agreement. A copy of the rules and any amendments to them shall be posted in a conspicuous place upon the manufactured home park grounds.

(D) No park operator shall require an owner to purchase from the park operator any personal property. The park operator may determine by rule the style or quality of skirting, equipment for tying down homes, manufactured or mobile home accessories, or other equipment to be purchased by an owner from a vendor of the owner's choosing, provided that the equipment is readily available to the owner. Any such equipment shall be installed in accordance with the manufactured home park rules.

(E) No park operator shall charge any owner who chooses to install an electric or gas appliance in a home an additional fee solely on the basis of the installation, unless the installation is performed by the park operator at the request of the owner, nor shall the park operator restrict the installation, service, or maintenance of the appliance, restrict the ingress or egress of repairpersons to the manufactured home park for the purpose of installation, service, or maintenance of the appliance, nor restrict the making of any interior improvement in a home, if the installation or improvement is in compliance with applicable building codes and other provisions of law and if adequate utility services are available for the installation or improvement.

(F) No park operator shall require a tenant to lease or an owner to purchase a manufactured or mobile home from the park

operator or any specific person as a condition of or prerequisite to entering into a rental agreement.

(G) No park operator shall require an owner to use the services of the park operator or any other specific person for installation of the manufactured or mobile home on the residential premises or for the performance of any service.

(H) No park operator shall:

(1) Deny any owner the right to sell the owner's manufactured home within the manufactured home park if the owner gives the park operator ten days' notice of the intention to sell the home;

(2) Require the owner to remove the home from the manufactured home park solely on the basis of the sale of the home;

(3) Unreasonably refuse to enter into a rental agreement with a purchaser of a home located within the operator's manufactured home park;

(4) Charge any tenant or owner any fee, charge, or assessment, including a rental fee, that is not set forth in the rental agreement or, if the rental agreement is oral, is not set forth in a written disclosure given to the tenant or owner prior to the tenant or owner entering into a rental agreement;

(5) Charge any owner any fee, charge, or assessment because of the transfer of ownership of a home or because a home is moved out of or into the manufactured home park, except a charge for the actual costs and expenses that are incurred by the park operator in moving the home out of or into the manufactured home park, or in installing the home in the manufactured home park and that have not been reimbursed by another tenant or owner.

(I) If the park operator violates any provision of divisions (A) to (H) of this section, the tenant or owner may recover actual

damages resulting from the violation, and, if the tenant or owner obtains a judgment, reasonable attorneys' fees, or terminate the rental agreement.

(J) No rental agreement shall require a tenant or owner to sell, lease, or sublet the tenant's or owner's interest in the rental agreement or the manufactured or mobile home that is or will be located on the lot that is the subject of the rental agreement to any specific person or through any specific person as the person's agent.

(K) No park operator shall enter into a rental agreement with the owner of a manufactured or mobile home for the use of residential premises, if the rental agreement requires the owner of the home, as a condition to the owner's renting, occupying, or remaining on the residential premises, to pay the park operator or any other person specified in the rental agreement a fee or any sum of money based on the sale of the home, unless the owner of the home uses the park operator or other person as the owner's agent in the sale of the home.

(L) A park operator and a tenant or owner may include in a rental agreement any terms and conditions, including any term relating to rent, the duration of an agreement, and any other provisions governing the rights and obligations of the parties that are not inconsistent with or prohibited by sections 3733.09 to 3733.20 of the Revised Code or any other rule of law.

(M) Notwithstanding any other provision of the Revised Code, the owner of a manufactured or mobile home ~~that was previously titled by a dealer~~ may utilize the services of a manufactured ~~home~~ housing dealer or broker licensed under Chapter 4517. of the Revised Code or a person properly licensed under Chapter ~~4735.~~ 4781. of the Revised Code to sell or lease the home.

Sec. ~~3733.12~~ 4781.41. (A) If a park operator fails to fulfill

any obligation imposed upon ~~him~~ the park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or the conditions of the premises are such that the resident reasonably believes that a park operator has failed to fulfill any such obligations, or a governmental agency has found that the premises are not in compliance with building, housing, health, or safety codes which apply to any condition of the residential premises that could materially affect the health and safety of an occupant, the resident may give notice in writing to the park operator specifying the acts, omissions, or code violations that constitute noncompliance with such provisions. The notice shall be sent to the person or place where rent is normally paid.

(B) If a park operator receives the notice described in division (A) of this section and after receipt of the notice fails to remedy the condition within a reasonable time, considering the severity of the condition and the time necessary to remedy such condition, or within thirty days, whichever is sooner, and if the resident is current in rent payments due under the rental agreement, the resident may do one of the following:

(1) Deposit all rent that is due and thereafter becomes due the park operator with the clerk of court of the municipal or county court having jurisdiction in the territory in which the residential premises are located;

(2) Apply to the court for an order directing the park operator to remedy the condition. As part thereof, the resident may deposit rent pursuant to division (B)(1) of this section, and may apply for an order reducing the periodic rent due the park operator until such time as the park operator does remedy the condition, and may apply for an order to use the rent deposited to remedy the condition. In any order issued pursuant to this division, the court may require the resident to deposit rent with

the clerk of court as provided in division (B)(1) of this section.

Sec. ~~3733.121~~ 4781.42. (A) Whenever a resident deposits rent with the clerk of a court as provided in section ~~3733.12~~ 4781.41 of the Revised Code, the clerk shall give written notice of this fact to the park operator and to ~~his~~ the park operator's agent, if any.

(B) The clerk shall place all rent deposited with ~~him~~ the clerk in a separate rent escrow account in the name of the clerk in a bank or building and loan association domiciled in this state.

(C) The clerk shall keep in a separate docket an account of each deposit, with the name and address of the resident, and the name and address of the park operator and of ~~his~~ the park operator's agent, if any.

(D) For ~~his~~ the clerk's costs, the clerk may charge a fee of one per cent of the amount of the rent deposited, which shall be assessed as court costs.

(E) All interest that has accrued on the rent deposited by the clerk of a county court under division (B) of this section shall be paid into the treasury of the political subdivision for which the clerk performs ~~his~~ the clerk's duties. All interest that has accrued on the rent deposited by the clerk of a municipal court under division (B) of this section shall be paid into the city treasury as defined in division (B) of section 1901.03 of the Revised Code.

Sec. ~~3733.122~~ 4781.43. (A) A park operator who receives notice that rent due ~~him~~ the park operator has been deposited with a clerk of court pursuant to section ~~3733.12~~ 4781.41 of the Revised Code, may:

(1) Apply to the clerk of court for release of the rent on

the ground that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code has been remedied. The clerk shall forthwith release the rent, less costs, to the park operator if the resident gives written notice to the clerk that the condition has been remedied.

(2) Apply to the court for release of the rent on the grounds that the resident did not comply with the notice requirement of division (A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the resident was not current in rent payments due under the rental agreement at the time the resident initiated rent deposits with the clerk of courts under division (B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code;

(3) Apply to the court for release of the rent on the grounds that there was no violation of any obligation imposed upon the park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or by any building, housing, health, or safety code, or that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code has been remedied.

(B) The resident shall be named as a party to any action filed by the park operator under this section, and shall have the right to file an answer and counterclaim, as in other civil cases. A trial shall be held within sixty days of the date of filing of the park operator's complaint, unless for good cause shown the court grants a continuance.

(C) If the court finds that there was no violation of any obligation imposed upon the park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or by any building, housing, health, or safety code, or that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code has been remedied, or that the resident did not comply with the notice requirement of division

(A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the resident was not current in rent payments at the time the resident initiated rent deposits with the clerk of court under division (B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code, the court shall order the release to the park operator of rent on deposit with the clerk, less costs.

(D) If the court finds that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code was the result of an act or omission of the resident, or that the resident intentionally acted in bad faith in proceeding under section ~~3733.12~~ 4781.41 of the Revised Code, the resident shall be liable for damages caused to the park operator, and for costs, together with reasonable attorneys' fees if the resident intentionally acted in bad faith.

Sec. ~~3733.123~~ 4781.44. (A) If a park operator brings an action for the release of rent deposited with a clerk of court, the court may, during the pendency of the action, upon application of the park operator, release part of the rent on deposit for payment of the periodic interest on a mortgage on the premises, the periodic principal payments on a mortgage on the premises, the insurance premiums for the premises, real estate taxes on the premises, utility services, repairs, and other customary and usual costs of operating the premises.

(B) In determining whether to release rent for the payments described in division (A) of this section, the court shall consider the amount of rent the park operator receives from other lots, the cost of operating these lots, and the costs which may be required to remedy the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code.

Sec. ~~3733.13~~ 4781.45. If a resident commits a material violation of the rules of the manufactured home park, of the ~~public health council~~ manufactured homes commission, or of applicable state and local health and safety codes, the park operator may deliver a written notification of the violation to the resident. The notification shall contain all of the following:

(A) A description of the violation;

(B) A statement that the rental agreement will terminate upon a date specified in the written notice not less than thirty days after receipt of the notice unless the resident remedies the violation;

(C) A statement that the violation was material and that if a second material violation of any park or ~~public health council~~ commission rule, or any health and safety code, occurs within six months after the date of this notice, the rental agreement will terminate immediately;

(D) A statement that a defense available to termination of the rental agreement for two material violations of park or ~~public health council~~ commission rules, or of health and safety codes, is that the park rule is unreasonable, or that the park or ~~public health council~~ commission rule, or health or safety code, is not being enforced against other manufactured home park residents, or that the two violations were not willful and not committed in bad faith.

If the resident remedies the condition described in the notice, whether by repair, the payment of damages, or otherwise, the rental agreement shall not terminate. The park operator may terminate the rental agreement immediately if the resident commits a second material violation of the park or ~~public health council~~ commission rules, or of applicable state and local health and safety codes, subject to the defense that the park rule is

unreasonable, that the park or ~~public health council~~ commission rule, or health or safety code, is not being enforced against other manufactured home park residents, or that the two violations were not willful and not committed in bad faith.

Sec. ~~3733.14~~ 4781.46. In any action under sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, any party may recover damages for the breach of contract or the breach of any duty that is imposed by law.

Sec. ~~3733.15~~ 4781.47. (A) No provision of sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code may be modified or waived by any oral or written agreement except as provided in division (F) of this section.

(B) No warrant of attorney to confess judgment shall be recognized in any rental agreement or in any other agreement between a park operator and resident for the recovery of rent or damages to the residential premises.

(C) No agreement to pay the park operator's or resident's attorney fees shall be recognized in any rental agreement for residential premises or in any other agreement between a park operator and resident.

(D) No agreement by a resident to the exculpation or limitation of any liability of the park operator arising under law or to indemnify the park operator for that liability or its related costs shall be recognized in any rental agreement or in any other agreement between a park operator and resident.

(E) A rental agreement, or the assignment, conveyance, trust deed, or security instrument of the park operator's interest in the rental agreement may not permit the receipt of rent free of the obligation to comply with section ~~3733.10~~ 4781.38 of the Revised Code.

(F) The park operator may agree to assume responsibility for fulfilling any duty or obligation imposed on a resident by section ~~3733.101~~ 4781.39 of the Revised Code.

Sec. ~~3733.16~~ 4781.48. (A) If the court as a matter of law finds a rental agreement, or any clause of it, to have been unconscionable at the time it was made, it may refuse to enforce the rental agreement or it may enforce the remainder of the rental agreement without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(B) When it is claimed or appears to the court that the rental agreement, or any clause of it, may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its setting, purpose, and effect to aid the court in making the determination.

Sec. ~~3733.17~~ 4781.49. (A) No park operator of residential premises shall initiate any act, including termination of utilities or services, exclusion from the premises, or threat of any unlawful act, against a resident, or a resident whose right to possession has terminated, for the purpose of recovering possession of residential premises, other than as provided in Chapters 1923., ~~3733.~~ 4781., and 5303. of the Revised Code.

(B) No park operator of residential premises shall seize the furnishings or possessions of a resident, or of a resident whose right to possession was terminated, for the purpose of recovering rent payments, other than in accordance with an order issued by a court of competent jurisdiction.

(C) A park operator who violates this section is liable in a civil action for all damages caused to a resident, or to a resident whose right to possession has terminated, together with

reasonable attorneys' fees.

Sec. ~~3733.18~~ 4781.50. (A) Any security deposit in excess of fifty dollars or one month's periodic rent, whichever is greater, shall bear interest on the excess at the rate of five per cent per annum if the resident remains in possession of the premises for six months or more, and shall be computed and paid annually by the park operator to the resident.

(B) Upon termination of the rental agreement any property or money held by the park operator as a security deposit may be applied to the payment of past due rent and to the payment of the amount of damages that the park operator has suffered by reason of the resident's noncompliance with section ~~3733.101~~ 4781.39 of the Revised Code or the rental agreement. Any deduction from the security deposit shall be itemized and identified by the park operator in a written notice delivered to the resident together with the amount due, within thirty days after termination of the rental agreement and delivery of possession. The resident shall provide the park operator in writing with a forwarding address or new address to which the written notice and amount due from the park operator may be sent. If the resident fails to provide the park operator with the forwarding or new address as required, the resident shall not be entitled to damages or attorneys' fees under division (C) of this section.

(C) If the park operator fails to comply with division (B) of this section, the resident may recover the property and money due ~~him~~ the resident, together with damages in an amount equal to the amount wrongfully withheld, and reasonable attorneys' fees.

Sec. ~~3733.19~~ 4781.51. (A) Every written rental agreement for residential premises shall contain the name and address of the owner of the residential premises and the name and address of the

owner's agent, if any. If the owner or the owner's agent is a corporation, partnership, limited partnership, association, trust, or other entity, the address shall be the principal place of business in the county in which the residential premises are situated or if there is no place of business in such county then its principal place of business in this state, and shall include the name of the person in charge thereof.

(B) If the rental agreement is oral, the park operator, at the commencement of the term of occupancy, shall deliver to the resident a written notice containing the information required in division (A) of this section.

(C) If the park operator fails to provide the notice of the name and address of the owner and owner's agent, if any, as required under division (A) or (B) of this section, the notices to the park operator required under division (A) of sections ~~3733.12~~ 4781.41 and ~~3733.121~~ 4781.42 of the Revised Code are waived by the park operator and the operator's agent.

(D) Every written rental agreement for residential premises shall contain the following notice in ten-point boldface type:

"YOUR RIGHTS AS A RESIDENT AND YOUR MANUFACTURED HOME PARK OPERATOR'S RIGHTS ARE PROTECTED BY SECTIONS ~~3733.09~~ 4781.36 TO ~~3733.20~~ 4781.52 OF THE REVISED CODE, WHICH REGULATE RENTAL AGREEMENTS IN MANUFACTURED HOME PARKS."

If the rental agreement is oral, the park operator, at the commencement of the term of occupancy, shall deliver the notice to the resident in writing.

Sec. ~~3733.20~~ 4781.52. No municipal corporation may adopt or continue in existence any ordinance and no township may adopt or continue in existence any resolution that is in conflict with sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code,

or that regulates those rights and obligations of parties to a rental agreement that are regulated by sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code. Sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code do not preempt any housing, building, health, or safety codes of any municipal corporation or township.

Sec. 4781.54. There is hereby created in the state treasury the manufactured homes commission regulatory fund. The fund shall consist of fees collected under section 4781.121 of the Revised Code and fees paid under section 4781.28 of the Revised Code and shall be used for the purposes described in those sections.

Sec. 4781.99. (A) Whoever violates division (A) of section 4781.16 of the Revised Code is guilty of a minor misdemeanor on a first offense and shall be subject to a mandatory fine of one hundred dollars. On a second offense, the person is guilty of a misdemeanor of the first degree and shall be subject to a mandatory fine of one thousand dollars.

(B) Whoever violates section 4781.20 of the Revised Code is guilty of a minor misdemeanor.

(C) Whoever violates any of the following is guilty of a misdemeanor of the fourth degree:

(1) Division (B) or (C) of section 4781.16 of the Revised Code;

(2) Section 4781.22 of the Revised Code;

(3) Section 4781.23 of the Revised Code;

(4) Division (A) of section 4781.24 of the Revised Code;

(5) Section 4781.25 of the Revised Code;

(6) Division (A) of section 4781.35 of the Revised Code.

Sec. 4905.01. As used in this chapter:

(A) "Railroad" has the same meaning as in section 4907.02 of the Revised Code.

(B) "Motor ~~transportation company~~ carrier" has the same meaning as in ~~sections 4905.03 and 4921.02~~ section 4923.01 of the Revised Code.

(C) "~~Trailer~~ Motor vehicle" and "public highway" have the same meanings as in section ~~4921.02~~ 4921.01 of the Revised Code.

(D) ~~"Private motor carrier" and "motor vehicle" have the same meanings as in section 4923.02 of the Revised Code.~~

~~(E)~~ "Ohio coal research and development costs" means all reasonable costs associated with a facility or project undertaken by a public utility for which a recommendation to allow the recovery of costs associated therewith has been made under division (B)(7) of section 1551.33 of the Revised Code, including, but not limited to, capital costs, such as costs of debt and equity; construction and operation costs; termination and retirement costs; costs of feasibility and marketing studies associated with the project; and the acquisition and delivery costs of Ohio coal used in the project, less any expenditures of grant moneys.

Sec. 4905.02. (A) As used in this chapter, "public utility" includes every corporation, company, copartnership, person, or association, the lessees, trustees, or receivers of the foregoing, defined in section 4905.03 of the Revised Code, including any public utility that operates its utility not for profit, except the following:

~~(A)~~(1) An electric light company that operates its utility not for profit;

~~(B)~~(2) A public utility, other than a telephone company, that is owned and operated exclusively by and solely for the utility's customers, including any consumer or group of consumers purchasing, delivering, storing, or transporting, or seeking to purchase, deliver, store, or transport, natural gas exclusively by and solely for the consumer's or consumers' own intended use as the end user or end users and not for profit;

~~(C)~~(3) A public utility that is owned or operated by any municipal corporation;

~~(D)~~(4) A railroad as defined in sections 4907.02 and 4907.03 of the Revised Code;

~~(E)~~(5) Any provider, including a telephone company, with respect to its provision of any of the following:

~~(1)~~(a) Advanced services as defined in 47 C.F.R. 51.5;

~~(2)~~(b) Broadband service, however defined or classified by the federal communications commission;

~~(3)~~(c) Information service as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20);

~~(4)~~(d) Subject to division (A) of section 4927.03 of the Revised Code, internet protocol-enabled services as defined in section 4927.01 of the Revised Code;

~~(5)~~(e) Subject to division (A) of section 4927.03 of the Revised Code, any telecommunications service as defined in section 4927.01 of the Revised Code to which both of the following apply:

~~(a)~~(i) The service was not commercially available on September 13, 2010, the effective date of the amendment of this section by S.B. 162 of the 128th general assembly.

~~(b)~~(ii) The service employs technology that became available for commercial use only after September 13, 2010, the effective date of the amendment of this section by S.B. 162 of the 128th

general assembly.

(B)(1) "Public utility" includes a for-hire motor carrier even if the carrier is operated in connection with an entity described in division (A)(1), (2), (4), or (5) of this section.

(2) Division (A) of this section shall not be construed to relieve a private motor carrier, operated in connection with an entity described in division (A)(1), (2), (4), or (5) of this section, from compliance with any of the following:

(a) Chapter 4923. of the Revised Code;

(b) Hazardous-material regulation under section 4921.15 of the Revised Code and division (H) of section 4921.19 of the Revised Code, or rules adopted thereunder;

(c) Rules governing unified carrier registration adopted under section 4921.11 of the Revised Code.

Sec. 4905.03. As used in this chapter~~:~~

~~(A) Any~~, any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:

~~(1)~~(A) A telephone company, when engaged in the business of transmitting telephonic messages to, from, through, or in this state;

~~(2)~~(B) A for-hire motor ~~transportation company~~ carrier, when engaged in the business of ~~carrying and~~ transporting persons or property ~~or the business of providing or furnishing such transportation service, for hire, in or~~ by motor~~-propelled vehicles of any kind, including trailers, for the public in general, over any public street, road, or highway in this state~~ vehicle for compensation, except ~~as provided~~ when engaged in any of the operations in intrastate commerce described in divisions (B)(1) to (9) of section ~~4921.02~~ 4921.01 of the Revised Code, but

including the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories;

~~(3)~~(C) An electric light company, when engaged in the business of supplying electricity for light, heat, or power purposes to consumers within this state, including supplying electric transmission service for electricity delivered to consumers in this state, but excluding a regional transmission organization approved by the federal energy regulatory commission;

~~(4)~~(D) A gas company, when engaged in the business of supplying artificial gas for lighting, power, or heating purposes to consumers within this state or when engaged in the business of supplying artificial gas to gas companies or to natural gas companies within this state, but a producer engaged in supplying to one or more gas or natural gas companies, only such artificial gas as is manufactured by that producer as a by-product of some other process in which the producer is primarily engaged within this state is not thereby a gas company. All rates, rentals, tolls, schedules, charges of any kind, or agreements between any gas company and any other gas company or any natural gas company providing for the supplying of artificial gas and for compensation for the same are subject to the jurisdiction of the public utilities commission.

~~(5)~~(E) A natural gas company, when engaged in the business of supplying natural gas for lighting, power, or heating purposes to consumers within this state. Notwithstanding the above, neither the delivery nor sale of Ohio-produced natural gas by a producer or gatherer under a public utilities commission-ordered exemption, adopted before, as to producers, or after, as to producers or gatherers, January 1, 1996, or the delivery or sale of

Ohio-produced natural gas by a producer or gatherer of Ohio-produced natural gas, either to a lessor under an oil and gas lease of the land on which the producer's drilling unit is located, or the grantor incident to a right-of-way or easement to the producer or gatherer, shall cause the producer or gatherer to be a natural gas company for the purposes of this section.

All rates, rentals, tolls, schedules, charges of any kind, or agreements between a natural gas company and other natural gas companies or gas companies providing for the supply of natural gas and for compensation for the same are subject to the jurisdiction of the public utilities commission. The commission, upon application made to it, may relieve any producer or gatherer of natural gas, defined in this section as a gas company or a natural gas company, of compliance with the obligations imposed by this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, so long as the producer or gatherer is not affiliated with or under the control of a gas company or a natural gas company engaged in the transportation or distribution of natural gas, or so long as the producer or gatherer does not engage in the distribution of natural gas to consumers.

Nothing in division ~~(A)(5)~~(E) of this section limits the authority of the commission to enforce sections 4905.90 to 4905.96 of the Revised Code.

~~(6)~~(F) A pipe-line company, when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partly within this state;

~~(7)~~(G) A water-works company, when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;

~~(8)~~(H) A heating or cooling company, when engaged in the business of supplying water, steam, or air through pipes or tubing

to consumers within this state for heating or cooling purposes;

~~(9)~~(I) A messenger company, when engaged in the business of supplying messengers for any purpose;

~~(10)~~(J) A street railway company, when engaged in the business of operating as a common carrier, a railway, wholly or partly within this state, with one or more tracks upon, along, above, or below any public road, street, alleyway, or ground, within any municipal corporation, operated by any motive power other than steam and not a part of an interurban railroad, whether the railway is termed street, inclined-plane, elevated, or underground railway;

~~(11)~~(K) A suburban railroad company, when engaged in the business of operating as a common carrier, whether wholly or partially within this state, a part of a street railway constructed or extended beyond the limits of a municipal corporation, and not a part of an interurban railroad;

~~(12)~~(L) An interurban railroad company, when engaged in the business of operating a railroad, wholly or partially within this state, with one or more tracks from one municipal corporation or point in this state to another municipal corporation or point in this state, whether constructed upon the public highways or upon private rights-of-way, outside of municipal corporations, using electricity or other motive power than steam power for the transportation of passengers, packages, express matter, United States mail, baggage, and freight. Such an interurban railroad company is included in the term "railroad" as used in section 4907.02 of the Revised Code.

~~(13)~~(M) A sewage disposal system company, when engaged in the business of sewage disposal services through pipes or tubing, and treatment works, or in a similar manner, within this state.

~~(B) "Motor-propelled vehicle" means any automobile,~~

~~automobile truck, motor bus, or any other self-propelled vehicle not operated or driven upon fixed rails or tracks.~~

Sec. 4905.05. The jurisdiction, supervision, powers, and duties of the public utilities commission extend to every public utility and railroad, the plant or property of which lies wholly within this state and when the property of a public utility or railroad lies partly within and partly without this state to that part of such plant or property which lies within this state; to the persons or companies owning, leasing, or operating such public utilities and railroads; to the records and accounts of the business thereof done within this state; and to the records and accounts of any companies which are part of an electric utility holding company system exempt under section 3(a)(1) or (2) of the "Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 U.S.C. 79c, and the rules and regulations promulgated thereunder, insofar as such records and accounts may in any way affect or relate to the costs associated with the provision of electric utility service by any public utility operating in this state and part of such holding company system.

Nothing in this section, or section 4905.06 or 4905.46 of the Revised Code pertaining to regulation of holding companies, grants the public utilities commission authority to regulate a holding company or its subsidiaries which are organized under the laws of another state, render no public utility service in the state of Ohio, and are regulated as a public utility by the public utilities commission of another state or primarily by a federal regulatory commission, nor do these grants of authority apply to public utilities that are excepted from the definition of "public utility" under divisions (A)(1) to ~~(C)~~(3) of section 4905.02 of the Revised Code.

Sec. 4905.06. The public utilities commission has general

supervision over all public utilities within its jurisdiction as defined in section 4905.05 of the Revised Code, and may examine such public utilities and keep informed as to their general condition, capitalization, and franchises, and as to the manner in which their properties are leased, operated, managed, and conducted with respect to the adequacy or accommodation afforded by their service, the safety and security of the public and their employees, and their compliance with all laws, orders of the commission, franchises, and charter requirements. The commission has general supervision over all other companies referred to in section 4905.05 of the Revised Code to the extent of its jurisdiction as defined in that section, and may examine such companies and keep informed as to their general condition and capitalization, and as to the manner in which their properties are leased, operated, managed, and conducted with respect to the adequacy or accommodation afforded by their service, and their compliance with all laws and orders of the commission, insofar as any of such matters may relate to the costs associated with the provision of electric utility service by public utilities in this state which are affiliated or associated with such companies. The commission, through the public utilities commissioners or inspectors or employees of the commission authorized by it, may enter in or upon, for purposes of inspection, any property, equipment, building, plant, factory, office, apparatus, machinery, device, and lines of any public utility. The power to inspect includes the power to prescribe any rule or order that the commission finds necessary for protection of the public safety. In order to assist the commission in the performance of its duties under this chapter, authorized employees of the motor carrier enforcement unit, created under section 5503.34 of the Revised Code in the division of state highway patrol, of the department of public safety may enter in or upon, for inspection purposes, any motor vehicle of any ~~motor transportation company or private~~ motor

carrier ~~as defined in section 4923.02 of the Revised Code~~.

In order to inspect motor vehicles owned or operated by a motor ~~transportation company~~ carrier engaged in the transportation of persons, authorized employees of the motor carrier enforcement unit, division of state highway patrol, of the department of public safety may enter in or upon any property of any motor ~~transportation company, as defined in section 4921.02 of the Revised Code,~~ carrier engaged in the intrastate transportation of persons.

Sec. 4905.402. (A) As used in this section:

(1) "Control" means the possession of the power to direct the management and policies of a domestic telephone company or a holding company of a domestic telephone company, or the management and policies of a domestic electric utility or a holding company of a domestic electric utility, through the ownership of voting securities, by contract, or otherwise, but does not include the power that results from holding an official position or the possession of corporate office with the domestic company or utility or the holding company. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds the power to vote, or holds with the power to vote proxies that constitute, twenty per cent or more of the total voting power of the domestic company or utility or the holding company.

(2) "Electric utility" has the same meaning as in section 4928.07 of the Revised Code.

(3) "Holding company" excludes any securities broker performing the usual and customary broker's function.

(4) "Telephone company" means any company described in division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code and

provides basic local exchange service, as defined in section 4927.01 of the Revised Code.

(B) No person shall acquire control, directly or indirectly, of a domestic telephone company or a holding company controlling a domestic telephone company or of a domestic electric utility or a holding company controlling a domestic electric utility unless that person obtains the prior approval of the public utilities commission under this section. To obtain approval the person shall file an application with the commission demonstrating that the acquisition will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge. The application shall contain such information as the commission may require. If the commission considers a hearing necessary, it may fix a time and place for hearing. If, after review of the application and after any necessary hearing, the commission is satisfied that approval of the application will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge, the commission shall approve the application and make such order as it considers proper. If the commission fails to issue an order within thirty days of the filing of the application, or within twenty days of the conclusion of a hearing, if one is held, the application shall be deemed approved by operation of law.

(C) No domestic telephone company shall merge with another domestic telephone company unless the merging companies obtain the prior approval of the commission. An application seeking such approval shall be filed, processed, and decided in the manner provided for an application under division (B) of this section.

(D) The commission shall adopt such rules as it finds necessary to carry out the provisions of this section.

(E) If it appears to the commission or to any person that may be adversely affected that any person is engaged in or about to

engage in any acts or practices that would violate division (B) or (C) of this section or any provision of a rule adopted under this section, the attorney general, when directed to do so by the commission, or the person claiming to be adversely affected may bring an action in any court of common pleas that has jurisdiction and venue to enjoin such acts or practices and enforce compliance. Upon a proper showing, the court shall grant, without bond, a restraining order or temporary or permanent injunction.

(F) The courts of this state have jurisdiction over every person not a resident of or domiciled or authorized to do business in this state that files, or is prohibited from acting without first filing, an application under division (B) or (C) of this section, and over all actions involving such person arising out of violations of any provision of this section or of a rule adopted under this section. The secretary of state shall be the agent for service of process for any such person in any action, suit, or proceeding arising out of such violations. Copies of all such lawful process shall be served upon the secretary of state and transmitted by certified mail, with return receipt requested, by the secretary of state to such person at the person's last known address.

Sec. 4905.54. Every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the public utilities commission made under authority of this chapter and Chapters 4901., 4903., 4907., and 4909.~~, 4921., and 4923.~~ of the Revised Code, so long as they remain in force. Except as otherwise specifically provided in ~~sections 4905.83,~~ section 4905.95~~, 4919.99, 4921.99, and 4923.99~~ of the Revised Code, the public utilities commission may assess a forfeiture of not more than ten thousand dollars for each violation or failure against a public utility or railroad that violates a provision of those chapters or

that after due notice fails to comply with an order, direction, or requirement of the commission that was officially promulgated. Each day's continuance of the violation or failure is a separate offense. All forfeitures collected under this section shall be credited to the general revenue fund.

Sec. 4905.57. Except as otherwise specifically provided in sections ~~4905.83,~~ 4905.96~~, 4919.99, 4921.99,~~ and 4923.99 of the Revised Code, actions to recover forfeitures provided for in this chapter and Chapters 4901., 4903., 4907., 4909., ~~4921.,~~ and 4923. of the Revised Code shall be prosecuted in the name of the state and may be brought in the court of common pleas of any county in which the public utility ~~or,~~ railroad, or motor carrier is located. Such actions shall be commenced and prosecuted by the attorney general when ~~he~~ the attorney general is directed to do so by the public utilities commission. Moneys recovered by such actions shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 4905.58. All prosecutions against a railroad or an officer, agent, or employee thereof, under Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., and 4923.~~ and other sections of the Revised Code for penalties involving imprisonment shall be by indictment.

Sec. 4905.80. The policy of this state is to:

(A) Regulate transportation by motor carriers so as to recognize and preserve the inherent advantages of, and foster safe conditions in, that transportation and among those carriers in the public interest;

(B) Promote safe and secure service by motor carriers, without unjust discriminations, undue preferences or advantages, and unfair or destructive competitive practices;

(C) Improve the relations between, and coordinate transportation by and regulation of, motor carriers and other carriers;

(D) Develop and preserve a highway transportation system properly adapted to the needs of commerce and the state;

(E) Cooperate with the federal government and the several states, and the authorized officials thereof, and with any organization of motor carriers in the administration and enforcement of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code.

Sec. 4905.81. The public utilities commission shall:

(A) Supervise and regulate each motor carrier;

(B) Regulate the safety of operation of each motor carrier;

(C) Adopt reasonable safety rules applicable to the highway transportation of persons or property in interstate and intrastate commerce by motor carriers;

(D) Adopt safety rules applicable to the transportation and offering for transportation of hazardous materials in interstate and intrastate commerce by motor carriers. The rules shall not be incompatible with the requirements of the United States department of transportation.

(E) Require the filing of reports and other data by motor carriers;

(F) Adopt reasonable rules for the administration and enforcement of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code applying to each motor carrier in this state;

(G) Supervise and regulate motor carriers in all other matters affecting the relationship between those carriers and the

public to the exclusion of all local authorities, except as provided in this section. The commission, in the exercise of the jurisdiction conferred upon it by this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, may adopt rules affecting motor carriers, notwithstanding the provisions of any ordinance, resolution, license, or permit enacted, adopted, or granted by any township, municipal corporation, municipal corporation and county, or county. In case of conflict between any such ordinance, resolution, license, or permit, the order or rule of the commission shall prevail. Local subdivisions may adopt reasonable local police rules within their respective boundaries not inconsistent with those chapters and rules adopted under them.

The commission has jurisdiction to receive, hear, and determine as a question of fact, upon complaint of any party or upon its own motion, and upon not less than fifteen days' notice of the time and place of the hearing and the matter to be heard, whether any corporation, company, association, joint-stock association, person, firm, or copartnership, or their lessees, legal or personal representatives, trustees, or receivers or trustees appointed by any court, is engaged as a motor carrier. The finding of the commission on such a question is a final order that may be reviewed as provided in section 4923.15 of the Revised Code.

Sec. 4905.84. (A) As used in this section:

(1) "Telecommunications relay service" means intrastate transmission services that provide the ability for an individual who has a hearing or speech impairment to engage in a communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to

communicate using voice communication services by wire or radio. "Telecommunications relay service" includes services that enable two-way communication between an individual who uses a telecommunications device for the deaf or other nonvoice terminal device and an individual who does not use such a device.

(2) "TRS provider" means an entity selected by the public utilities commission as the provider of telecommunications relay service for this state as part of the commission's intrastate telecommunications relay service program certified pursuant to federal law.

(B) For the sole purpose of funding telecommunications relay service, the commission shall, not earlier than January 1, 2009, impose on and collect from each service provider that is required under federal law to provide its customers access to telecommunications relay service an annual assessment to pay for costs incurred by the TRS provider for providing such service in Ohio. The commission shall determine the appropriate service providers to be assessed the telecommunications relay service costs, including telephone companies as defined in division (A)~~(1)~~ of section 4905.03 of the Revised Code, commercial mobile radio service providers, and providers of advanced services or internet protocol-enabled services that are competitive with or functionally equivalent to basic local exchange service as defined in section 4927.01 of the Revised Code.

(C) The assessment shall be allocated proportionately among the appropriate service providers using a competitively neutral formula established by the commission based on the number of retail intrastate customer access lines or their equivalent. The commission shall annually reconcile the funds collected with the actual costs of providing telecommunications relay service when it issues the assessment and shall either proportionately charge the service providers for any amounts not sufficient to cover the

actual costs or proportionately credit amounts collected in excess of the actual costs. The total amount assessed from all service providers shall not exceed the total telecommunications relay service costs.

Each service provider that pays the assessment shall be permitted to recover the cost of the assessment. The method of recovery may include, but is not limited to, a customer billing surcharge.

The commission shall deposit the money collected in the telecommunications relay service fund, which is hereby created in the state treasury, and shall use the money in that fund solely to compensate the TRS provider.

(D) The commission shall take such measures as it considers necessary to protect the confidentiality of information provided to the commission pursuant to this section by service providers required to pay the assessment.

(E) The commission may assess a forfeiture of not more than one thousand dollars on any service provider failing to comply with this section. Each day's continuance of such failure is a separate offense. The forfeiture shall be recovered in accordance with sections 4905.55 to 4905.60 of the Revised Code.

(F) The jurisdiction and authority granted to the commission by this section is limited to the administration and enforcement of this section. The commission may adopt such rules as it finds necessary to carry out this section. The commission shall adopt rules under section 111.15 of the Revised Code to establish the assessment amounts and procedures.

Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the Revised Code:

(A) "Contiguous property" includes, but is not limited to, a

manufactured home park as defined in section ~~3733.01~~ 4781.01 of the Revised Code; a public or publicly subsidized housing project; an apartment complex; a condominium complex; a college or university; an office complex; a shopping center; a hotel; an industrial park; and a race track.

(B) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.

(C) "Gathering lines" and the "gathering of gas" have the same meaning as in the Natural Gas Pipeline Safety Act and the rules adopted by the United States department of transportation pursuant to the Natural Gas Pipeline Safety Act, including 49 C.F.R. part 192, as amended.

(D) "Intrastate pipe-line transportation" has the same meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as amended, but excludes the gathering of gas exempted by the Natural Gas Pipeline Safety Act.

(E) "Master-meter system" means a pipe-line system that distributes gas within a contiguous property for which the system operator purchases gas for resale to consumers, including tenants. Such pipe-line system supplies consumers who purchase the gas directly through a meter, or by paying rent, or by other means. The term includes a master-meter system as defined in 49 C.F.R. 191.3, as amended. The term excludes a pipeline within a manufactured home, mobile home, or a building.

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 et seq., as amended.

(G) "Operator" means any of the following:

(1) A gas company or natural gas company as defined in section 4905.03 of the Revised Code, except that division ~~(A)(5)~~(E) of that section does not authorize the public utilities

commission to relieve any producer of gas, as a gas company or natural gas company, of compliance with sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code created under section 4905.91 of the Revised Code;

(2) A pipe-line company, as defined in section 4905.03 of the Revised Code, when engaged in the business of transporting gas by pipeline;

(3) A public utility that is excepted from the definition of "public utility" under division ~~(B)~~(A)(2) or ~~(C)~~(3) of section 4905.02 of the Revised Code, when engaged in supplying or transporting gas by pipeline within this state;

(4) Any person that owns, operates, manages, controls, or leases any of the following:

(a) Intrastate pipe-line transportation facilities within this state;

(b) Gas gathering lines within this state which are not exempted by the Natural Gas Pipeline Safety Act;

(c) A master-meter system within this state.

"Operator" does not include an ultimate consumer who owns a service line, as defined in 49 C.F.R. 192.3, as amended, on the real property of that ultimate consumer.

(H) "Operator of a master-meter system" means a person described under division ~~(F)~~(G)(4)(c) of this section. An operator of a master-meter system is not a public utility under section 4905.02 or a gas or natural gas company under section 4905.03 of the Revised Code.

(I) "Person" means:

(1) In addition to those defined in division (C) of section 1.59 of the Revised Code, a joint venture or a municipal corporation;

(2) Any trustee, receiver, assignee, or personal representative of persons defined in division ~~(H)~~(I)(1) of this section.

(J) "Safety audit" means the public utilities commission's audit of the premises, pipe-line facilities, and the records, maps, and other relevant documents of a master-meter system to determine the operator's compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code.

(K) "Safety inspection" means any inspection, survey, or testing of a master-meter system which is authorized or required by sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. The term includes, but is not limited to, leak surveys, inspection of regulators and critical valves, and monitoring of cathodic protection systems, where applicable.

(L) "Safety-related condition" means any safety-related condition defined in 49 C.F.R. 191.23, as amended.

(M) "Total Mcfs of gas it supplied or delivered" means the sum of the following volumes of gas that an operator supplied or delivered, measured in units per one thousand cubic feet:

(1) Residential sales;

(2) Commercial and industrial sales;

(3) Other sales to public authorities;

(4) Interdepartmental sales;

(5) Sales for resale;

(6) Transportation of gas.

Sec. 4907.01. As used in sections 4907.01 to 4907.63 of the Revised Code:

(A) "Public utility" has the same meaning as in section 4905.02 of the Revised Code.

(B) "Telephone company," "street railway company," and "interurban railroad company" have the same meanings as in section 4905.03 of the Revised Code.

(C) "Railroad" has the same meaning as in section 4907.02 of the Revised Code.

(D) "Public highway" has the same meaning as in ~~sections 4905.03 and 4921.02~~ section 4921.01 of the Revised Code.

Sec. 4907.02. As used in Chapters 4901., 4903., 4905., 4907., 4909., ~~4921., 4923.,~~ and 4959. of the Revised Code, "railroad" includes any corporation, company, individual, or association of individuals, or its lessees, trustees, or receivers appointed by a court, which owns, operates, manages, or controls a railroad or part of a railroad as a common carrier in this state, or which owns, operates, manages, or controls any cars or other equipment used on such a railroad, or which owns, operates, manages, or controls any bridges, terminals, union depots, sidetracks, docks, wharves, or storage elevators used in connection with such a railroad, whether owned by such railroad or otherwise, and means and includes express companies, water transportation companies, freight-line companies, sleeping car companies, and interurban railroad companies, and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state. All duties required of, and penalties imposed upon, a railroad or an officer or agent thereof insofar as they are applicable, are required and imposed upon express companies, water transportation companies, and interurban railroad companies, and upon their officers and agents.

The public utilities commission has the power of supervision and control of express companies, water transportation companies, and interurban railroad companies to the same extent as railroads.

Sec. 4907.04. Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code do not apply to street and electric railways engaged solely in the transportation of passengers within the limits of cities, or to other private railroads not doing business as common carriers.

Sec. 4907.08. The public utilities commission shall inquire into any neglect or violation of the laws of this state by a railroad doing business in this state, by its officers, agents, or employees, or by any person operating a railroad. The commission shall enforce Chapters 4901., 4903., 4905., 4907., 4909., ~~4921., 4923.,~~ and 4959. of the Revised Code, as well as all other laws relating to railroads, and report violations thereof to the attorney general.

If, upon complaint or otherwise, the commission has reason to believe that a railroad or any officer, agent, or employee of a railroad has violated or is violating any law of this state, or if it has reason to believe that differences have arisen between citizens of the state and any railroad operating as a common carrier within this state, it shall examine into the matter.

Sec. 4907.19. The public utilities commission shall cause blank forms to be prepared suitable for the purposes designated in Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and, when necessary, furnish such blank forms to each railroad.

Sec. 4907.28. No railroad shall charge, demand, collect, or receive a greater or less compensation for the transportation of passengers or property, or for any service in connection

therewith, than is specified in the printed schedules referred to in sections 4907.25 to 4907.27~~, inclusive,~~ of the Revised Code, including schedules of joint rates, as being then in force. The rates, fares, and charges named in such schedules shall be the lawful rates, fares, and charges until they are changed as provided in Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code.

Sec. 4907.35. If a railroad, or an agent or officer of a railroad, by special rate, rebate, drawback, or by means of false billing, false classification, false weighing, or other device, charges, demands, collects, or receives, either directly or indirectly, from any person, firm, or corporation, a greater or less compensation for service rendered or to be rendered by such railroad for the transportation of persons or property or any service in connection therewith, than that prescribed in the published tariffs then in force, or established as provided in Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code, or a greater or less compensation than it charges, demands, collects, or receives from any other person, firm, or corporation for a like and contemporaneous service in the transportation of a like kind of traffic, under substantially similar circumstances and conditions, the railroad is guilty of unjust discrimination, which is hereby prohibited. Upon conviction of unjust discrimination, such railroad shall forfeit and pay into the state treasury not less than one hundred nor more than five thousand dollars for each offense.

No agent or officer of a railroad shall violate this section.

Sec. 4907.37. No common carrier subject to Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code shall make or give undue or unreasonable preference or advantage to a particular person, company, firm, corporation,

or locality, or to any particular description of traffic, or subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect.

Sec. 4907.43. When the tracks of a railroad and the tracks of an interurban or suburban railway cross, connect, or intersect, and such tracks are of the same gauge, the companies owning such railroads may connect such tracks so as to admit the passage of cars from one to the other with facility.

If any such railroads fail to make such connection, upon complaint of any party authorized by Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code to file complaint, the public utilities commission shall proceed to hear and determine the same in a manner provided for making investigations upon complaint.

If upon such hearing the commission finds that it is practicable and reasonably necessary to ~~accomodate~~ accommodate the public, to connect such tracks and that when so connected it will be practicable to transport cars over such railroad without endangering the equipment, tracks, or appliances of either company, the commission shall make an order requiring such railroads to make connection. Such order shall describe the terms and conditions and shall apportion the cost of making such connection between the railroads.

When such connection is made, the railroads parties to it, according to their respective powers, shall afford all reasonable and proper facilities for the interchange of traffic between their respective lines for forwarding and delivering passengers and property, and without unreasonable delay or discrimination shall transfer, switch, and deliver freight or passenger cars destine to a point on its own or connecting lines. Precedence may be given to

livestock and perishable freight over other freight. Whenever a derailing device is required at the intersection of any railroads mentioned in this section, it shall be installed, maintained, and operated as required by the commission, which may prescribe the necessary rules and regulations for such operation, and designate the companies that shall be responsible for the operation of such derailing device.

Sec. 4907.49. When two or more railroads cross a public highway or street at a dangerous crossing, the expenses incurred in the erection and maintenance of gates, bells, or other devices, and of necessary gatekeepers or ~~flagmen~~ flaggers, and apportioned by the public utilities commission as railroad expense, shall be shared equally by the railroads.

Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., and 4923.~~ of the Revised Code do not prevent the use of automatic bells or other mechanical devices by a railroad at a public crossing not declared dangerous by the public utilities commission, nor do they prevent state, county, township, or municipal officials from entering into an agreement with a railroad to pay all or part of the expense of erecting a warning device. Any funds levied and made available for highways or street purposes may be used to pay the public share of the cost under such an agreement. If a gate is erected or a ~~flagman~~ flagger is stationed and maintained by a railroad, either alone or pursuant to such an agreement, the gate or ~~flagman~~ flagger shall not be abandoned nor an automatic bell or other mechanical device substituted for the gate or ~~flagman~~ flagger, unless the commission consents to the abandonment or substitution.

Sec. 4907.57. All claims, charges, or demands against a railroad for loss of or damage to property occurring while in the custody of such railroad and unreasonable delay in transportation

and delivery, for overcharges upon a shipment, or for any other service in violation of Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code, if not paid within sixty days from the date of the filing thereof with such railroad, may be submitted to the public utilities commission by a formal complaint. Such complaint shall be made upon blank forms which the commission shall provide upon demand of the claimant.

Such complaint shall be verified as petitions in civil actions and may be accompanied by the sworn statements of any witnesses who have knowledge of any fact material to the inquiry. Upon the filing of such complaint the commission shall forthwith cite the railroad to answer the complaint, and the citation shall be accompanied with a brief statement of the claim. The answer of the railroad shall be filed within three weeks from the service of the citation and shall be verified as answers in civil cases, and may be accompanied with the affidavits of any witnesses having knowledge of facts material to the inquiry.

The burden of proof shall be upon the railroad to show that loss or damage to property was not due to its negligence. The railroad to which property is delivered for shipment shall prima facie be liable for loss or damage occurring to such property in transit notwithstanding such property may be delivered to other railroads before reaching its destination. The claim referred to in this section for loss of or damage to property may be made to any carrier over whose lines the lost or damaged property was consigned, and such claimant may at ~~his~~ the claimant's option join all of such railroads as parties defendant in ~~his~~ the complaint before said commission. The railroad shall furnish the claimant with a copy of its answer and affidavits, and within two weeks from the filing of such answers the claimant may file ~~his~~ a reply, with affidavits in support thereof, verified as replies in civil cases. At the expiration of said period of two weeks the

commission shall proceed summarily to examine the complaint, answer, reply, and affidavits, and shall determine the existence and validity of the claim presented. If the commission finds in favor of the claimant it shall certify its findings to the clerk of the court of common pleas of the county in which the claimant resides or where the railroad or any of its offices is maintained.

Sec. 4907.59. Upon request of the public utilities commission, the attorney general or the prosecuting attorney of the proper county shall aid in an investigation, prosecution, hearing, or trial had under Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code, and shall institute and prosecute necessary actions or proceedings for the enforcement of such chapters and of other laws of this state relating to railroads, and for the punishment of all violations of such chapters and such other laws.

Sec. 4907.60. If a railroad fails to perform a duty enjoined upon it by Chapter 4901., 4903., 4905., 4907., 4909., ~~4921., 4923.,~~ or 4959. of the Revised Code, or does any act prohibited by any of those chapters, for which failure or act no penalty or forfeiture has been provided by law, or fails to obey a lawful requirement or order made by the public utilities commission or order of any court upon application of the commission, the railroad, except as otherwise specifically provided in ~~sections 4905.83,~~ section 4905.95~~, 4919.99, 4921.99, and 4923.99~~ of the Revised Code, shall forfeit into the state treasury not less than one hundred nor more than ten thousand dollars for each violation or failure. In construing and enforcing this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by a railroad, while acting within the scope of the officer's, agent's, or other person's employment, is the act, omission, or failure of the railroad.

Sec. 4907.61. Except as otherwise specifically provided in sections ~~4905.83,~~ 4905.96~~, 4919.99, 4921.99,~~ and 4923.99 of the Revised Code, when the attorney general prosecutes an action for the recovery of a forfeiture provided for in Chapter 4901., 4903., 4905., 4907., 4909., 4921., 4923., or 4959. of the Revised Code, the attorney general may bring the action in the court of common pleas of Franklin county or of any county having jurisdiction of the defendant.

Sec. 4907.62. If a railroad does, causes, or permits anything prohibited by Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code to be done, or omits doing anything required to be done by such chapters, such railroad is liable to the person, firm, or corporation injured thereby in treble the amount of damages sustained in consequence of such violation or omission. A recovery provided by this section shall not affect a recovery by the state of the penalty prescribed for such violation.

Sec. 4909.01. As used in this chapter:

(A) "Public utility" has the same meaning as in section 4905.02 of the Revised Code.

(B) "Electric light company," "gas company," "natural gas company," "pipeline company," "water-works company," "sewage disposal system company," and "street railway company" have the same meanings as in section 4905.03 of the Revised Code.

(C) "Railroad" has the same meaning as in section 4907.02 of the Revised Code.

(D) "~~Motor transportation company~~ For-hire motor carrier" has the same meaning as in ~~sections 4905.03 and 4921.02~~ section 4921.01 of the Revised Code.

Sec. 4909.02. All regulations, practices, and service of railroad companies prescribed by the public utilities commission shall be in force and be prima-facie reasonable, unless suspended or found otherwise in an action brought for that purpose pursuant to Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., and 4923.~~ of the Revised Code, or until changed or modified by the commission.

Sec. 4909.03. All rates, fares, charges, classifications, and joint rates of railroad companies fixed by the public utilities commission shall be in force and be prima-facie lawful for two years from the day they take effect, or until changed or modified by the commission or by an order of a competent court in an action under Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., and 4923.~~ of the Revised Code.

Sec. 4909.17. No rate, joint rate, toll, classification, charge, or rental, no change in any rate, joint rate, toll, classification, charge, or rental, and no regulation or practice affecting any rate, joint rate, toll, classification, charge, or rental of a public utility shall become effective until the public utilities commission, by order, determines it to be just and reasonable, except as provided in this section and sections 4909.18, 4909.19, and 4909.191 of the Revised Code. Such sections do not apply to any rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, of railroads, street and electric railways, for-hire motor ~~transportation companies~~ carriers, and pipe line companies.

Sec. 4909.22. When passengers or property are transported over two or more connecting railroads between points in this state, and the railroad companies have made joint rates for the transportation of such passengers or property, such rates and all

charges in connection therewith shall be just and reasonable. Every unjust and unreasonable charge is prohibited. A less charge by each of such railroads for its proportion of such joint rates than is made locally between the same points on their respective lines is not for that reason a violation of Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code and does not render such railroads liable to any of the penalties in such chapters.

Sec. 4909.24. Upon complaint of a person, firm, corporation, or association, of a mercantile, agricultural, or manufacturing society, or of a body politic or municipal organization, that any of the rates, fares, charges, or classifications, or any joint rates are in any respect unreasonable or unjustly discriminatory, or that any regulation or practice, affecting the transportation of persons or property, or any service in connection therewith, are in any respect unreasonable or unjustly discriminatory, or that any service is inadequate, the public utilities commission may notify the railroad complained of that complaint has been made, and ten days after such notice proceed to investigate such charges as provided in Chapters 4901., 4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code. Before making such investigation, the commission shall give the railroad and the complainants ten days' notice of the time and place such matters will be considered and determined, and such parties are entitled to be heard and to have process to enforce the attendance of witnesses.

A railroad may make complaint with like effect as though made by any person, firm, corporation, or association, ~~mercantile~~ mercantile, agricultural, or manufacturing society, body politic, or municipal organization.

Sec. 4909.28. If, upon an investigation under Chapters 4901.,

4903., 4905., 4907., and 4909.~~, 4921., 4923., and 4925.~~ of the Revised Code, the public utilities commission finds that any existing rate, fare, charge, or classification, any joint rate, or any regulation or practice affecting the transportation of persons or property, or service in connection therewith, is unreasonable or unjustly discriminatory, or that any service is inadequate, it shall determine and by order fix a reasonable rate, fare, charge, classification, joint rate, regulation, practice, or service to be imposed, observed, and followed in the future, in place of that so found to be unreasonable, unjustly discriminatory, or inadequate. A certified copy of each such order shall be delivered to an officer or station agent of the railroad affected, and such order shall of its own force take effect and become operative thirty days after service.

All railroads to which such order applies shall make such changes in their schedules on file as are necessary to conform to such order, and no change shall thereafter be made by any railroad in any such rate, fare, or charge, or in any joint rate, without the approval of the commission.

Sec. 4911.01. As used in this chapter:

(A) "Public utility" means every one as defined in divisions (A)~~(1), (3), (4), (5), (6), (7), (8)~~, (C), (D), (E), (F), (G), (H), and ~~(13)~~(M) of section 4905.03 of the Revised Code, including all public utilities that operate their utilities not for profit, except the following:

(1) Electric light companies that operate their utilities not for profit;

(2) Public utilities, other than telephone companies, that are owned and operated exclusively by and solely for the utilities' customers;

(3) Public utilities that are owned or operated by any municipal corporation;

(4) Railroads as defined in sections 4907.02 and 4907.03 of the Revised Code.

(B) "Residential consumer" means urban, suburban, and rural patrons of public utilities insofar as their needs for utility services are limited to their residence.

Sec. 4921.01. As used in this chapter:

(A) "Ambulance" has the same meaning as in section 4766.01 of the Revised Code.

(B) "For-hire motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in any of the following in intrastate commerce:

(1) The transportation of persons in taxicabs in the usual taxicab service;

(2) The transportation of pupils in school busses operating to or from school sessions or school events;

(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;

(4) The distribution of newspapers;

(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;

(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;

(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;

(8) The transportation of persons in a ridesharing

arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose;

(9) The operation of motor vehicles for contractors on public road work.

"For-hire motor carrier" includes the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories.

Divisions (B)(1) to (9) of this section shall not be construed to relieve a person from compliance with hazardous-material regulation under section 4921.15 of the Revised Code and division (H) of section 4921.19 of the Revised Code, or rules adopted thereunder, or from compliance with rules governing unified carrier registration adopted under section 4921.11 of the Revised Code.

(C) "Household goods" means personal effects and property used or to be used in a dwelling, excluding property moving from a factory or store.

(D) "Interstate commerce" means trade, traffic, or transportation in the United States that is any of the following:

(1) Between a place in a state and a place outside of that state (including a place outside of the United States);

(2) Between two places in a state through another state or a place outside of the United States;

(3) Between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.

(E) "Intrastate commerce" means any trade, traffic, or

transportation in any state which is not described in the term "interstate commerce."

(F) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of persons or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

(G) "Public highway" means any public street, road, or highway in this state, whether within or without the corporate limits of a municipal corporation.

(H) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of a volunteer driver, and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(I) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

(J) "Trailer" means any vehicle without motive power designed or used for carrying persons or property and for being drawn by a separate motor vehicle, including any vehicle of the trailer type, whether designed or used for carrying persons or property wholly on its own structure, or so designed or used that a part of its own weight or the weight of its load rests upon and is carried by such motor vehicle.

Sec. 4921.03. (A) No for-hire motor carrier may operate in intrastate commerce unless the carrier has a current and valid certificate of public convenience and necessity.

(B) The public utilities commission shall issue a certificate

of public convenience and necessity to any person who does all of the following:

(1) Files with the commission, in accordance with rules adopted under section 4921.05 of the Revised Code, a complete and accurate application that shall include a certification that (a) the person understands and is in compliance with the applicable service, operation, and safety laws of this state and (b) the person meets the requirements of section 4921.09 of the Revised Code;

(2) Agrees to maintain accurate and current business and insurance information with the commission, in accordance with the commission's rules;

(3) Has paid all applicable registration fees in accordance with rules adopted under section 4921.11 of the Revised Code, all applicable taxes under section 4921.19 of the Revised Code, and any forfeitures imposed under section 4923.99 of the Revised Code.

(C) The commission shall have no power to fix, alter, or establish rates for the transportation of persons or property, nor shall the commission have the power to require or accept the filing of tariffs establishing such rates, except that the commission may accept the filing of tariffs establishing rates for the transportation of household goods.

(D) A for-hire motor carrier may, at any time after a certificate of public convenience and necessity is granted or refused, file a new application or supplement a former application.

(E) The commission may deny issuance of a certificate of public convenience and necessity for failure to comply with this section or rules adopted under section 4921.05 of the Revised Code.

Sec. 4921.05. The public utilities commission shall adopt rules prescribing the manner and form in which a person shall apply for a certificate of public convenience and necessity under section 4921.03 of the Revised Code. The rules shall include a requirement that applications be made in writing on the blanks furnished by the commission and contain any information and certifications deemed necessary by the commission to carry out this chapter.

Sec. 4921.07. (A) The public utilities commission shall adopt rules regarding procedures and timelines by which a certificate of public convenience and necessity issued under section 4921.03 of the Revised Code may be suspended. At a minimum, the rules shall require suspension of a certificate if the for-hire motor carrier does any of the following:

(1) Fails to file a complete and accurate application for the certificate under section 4921.03 of the Revised Code;

(2) Fails to maintain accurate and current business and insurance information with the commission;

(3) Fails to maintain proper proof of insurance or proper levels of insurance under section 4921.09 of the Revised Code;

(4) Fails to pay all applicable registration fees in accordance with rules adopted under section 4921.11 of the Revised Code, all applicable taxes under section 4921.19 of the Revised Code, and any forfeitures imposed under section 4923.99 of the Revised Code;

(5) Requests to suspend the carrier's operations.

(B)(1) The commission shall adopt rules regarding procedures and timelines by which a certificate suspended under division (A) of this section may be revoked if the conditions giving rise to the suspension are not remedied.

(2) The commission shall provide the carrier with written notice indicating the nature of the deficiency, a proposed effective date of the revocation, and the means by which the deficiency may be remedied. The carrier may correct the identified deficiency or submit evidence refuting the proposed revocation within sixty days from the date of the notice. The commission may extend the sixty-day period for good cause shown. The commission may revoke the certificate after the remedy period if the carrier has not provided sufficient evidence to remedy the deficiency.

Sec. 4921.09. (A) No certificate of public convenience and necessity shall be issued by the public utilities commission to any for-hire motor carrier until the carrier has filed with the commission a liability insurance certificate, policy, or bond satisfactory to the commission, in the sum and with the provisions the commission considers necessary adequately to protect the interests of the public, having due regard for the number of persons and amount of property affected. The certificate, policy, or bond shall insure the carrier against loss sustained by reason of death or injuries to persons and for loss or damage to property resulting from the negligence of the carrier.

(B) No certificate for the transportation of household goods shall be issued to a for-hire motor carrier pursuant to sections 4921.30 to 4921.38 of the Revised Code until it has filed with the commission a freight cargo insurance certificate, policy, or bond that the commission has determined to be adequate to protect the interests of the shipping public.

(C) The Commission shall adopt rules to achieve the purposes of this section that are not incompatible with the requirements of the United States department of transportation. The rules shall at a minimum address all of the following:

(1) The minimum levels of financial responsibility for each

type of for-hire motor carrier;

(2) The form and type of documents to be filed with the commission;

(3) The manner by which documents may be filed with the commission;

(4) The timelines for filing documents with the commission.

(D) If a certificate, policy, or bond required under division (A) of this section is canceled during its term or lapses for any reason, both of the following apply:

(1) All operations under the certificate of public convenience and necessity shall cease immediately, and further operations shall not be conducted until a replacement is filed with the commission under division (D)(2) of this section.

(2) The commission shall require the company to replace the certificate, policy, or bond with another that fully complies with the requirements of this section.

The certificate of public convenience and necessity shall be reinstated only after a satisfactory insurance certificate, policy, or bond has been filed with the commission.

(E) To ensure minimum standards of protection of consumers' household goods, the commission may adopt rules, not incompatible with the requirements of the United States department of transportation, governing requirements for cargo insurance for for-hire motor carriers engaged in the transportation of household goods over a public highway in this state.

Sec. 4921.11. The public utilities commission shall adopt rules applicable to registration pursuant to the unified carrier registration plan, codified as 49 U.S.C. 14504a, and the rules, procedures, and fee schedules adopted thereunder, in accordance with division (G) of section 4921.19 of the Revised Code.

Sec. 4921.13. (A) The public utilities commission shall adopt rules applicable to the filing of annual update forms and the payment of taxes by for-hire motor carriers. The rules shall not be incompatible with the requirements of the United States department of transportation. The rules shall at a minimum address all of the following:

(1) The information and certifications that must be provided to the commission on an annual update form, including a certification that the carrier continues to be in compliance with the applicable laws of this state.

(2) Documentation and information that must be provided regarding proof of financial responsibility;

(3) The form and manner in which taxes may be paid under section 4921.19 of the Revised Code.

(B) The rules may address any other information that the commission determines is necessary to carry out this section.

(C) A for-hire motor carrier shall not be issued a tax receipt under division (C) of section 4921.19 of the Revised Code until all of the following have been satisfied:

(1) A complete and accurate annual update form has been filed with the commission;

(2) Proof of financial responsibility remains in effect;

(3) All applicable registration fees in accordance with rules adopted under section 4921.11 of the Revised Code, all applicable taxes under section 4921.19 of the Revised Code, and any forfeitures imposed under section 4923.99 of the Revised Code have been paid in full.

Sec. 4921.15. (A) As used in sections 4921.15, 4921.16, and 4921.19 of the Revised Code:

(1) "Uniform registration" has the same meaning as "registration" as used in the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819.

(2) "Uniform permit" has the same meaning as "permit" as used in the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819.

(B)(1) The public utilities commission may adopt rules applicable to the uniform registration and uniform permitting of persons engaged in the highway transportation of hazardous materials into, through, or within this state. The rules shall include rules staggering the registration date for those persons and reducing or extending, by no more than one year, the permit renewal period for those persons.

(2) For the purpose of minimizing filing requirements regarding any background investigation required for the issuance of a uniform permit as a carrier of hazardous wastes, the commission shall accept from any applicant for the permit any refiling of information the applicant has filed with the office of the attorney general under section 3734.42 of the Revised Code or any reference to that information if the refiled or referenced information is on file with the office of the attorney general, is accurate and timely for the commission's purposes under this section, and is supplemented by any additional information the commission requires. The office of the attorney general, as necessary for a background investigation, shall make accessible to the commission any information referenced or refiled in an application for a uniform permit as a carrier of hazardous wastes that the attorney general determines may be disclosed in

accordance with section 3734.42 of the Revised Code. Nothing in sections 4921.15, 4921.16, and division (H) of section 4921.19 of the Revised Code affects any limitations under section 3734.42 of the Revised Code on the disclosure of that information.

(C) The commission, as necessary to implement the rules adopted under division (B) of this section, may enter into agreements, contracts, arrangements, or declarations with other states and with the national repository, established pursuant to the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. The agreements, contracts, arrangements, or declarations shall include, but not be limited to, the determination of a base state, the collection of uniform registration fees, the frequency of distribution of uniform registration fees, procedures for dispute resolution, and protection of trade secrets and confidential business information.

(D) No person shall knowingly falsify or fail to submit any data, reports, records, or other information required to be submitted to the commission pursuant to this section or a rule adopted under it. For purposes of this division, a person acts knowingly if either of the following applies:

(1) The person has actual knowledge of the facts giving rise to the violation.

(2) A reasonable person acting in the circumstances and exercising due care would have such knowledge.

(E) After notice and opportunity for a hearing, the commission, pursuant to criteria set forth in rules adopted under division (B) of this section, may suspend, revoke, or deny the uniform permit as a carrier of hazardous materials of any person that has obtained or applied for such a uniform permit from the

commission pursuant to rules adopted under that division, or the commission may order the suspension of the transportation of hazardous materials into, through, or within this state by a carrier that has obtained a uniform permit from another state that has a reciprocity agreement with the commission pursuant to division (C) of this section.

(F)(1) The proceedings specified in division (E) of this section are subject to and governed by Chapter 4903. of the Revised Code, except as otherwise provided in this section. The court of appeals of Franklin county has exclusive original jurisdiction to review, modify, or vacate any order of the commission suspending, revoking, or denying a uniform permit as a carrier of hazardous materials of any person that has obtained or applied for a uniform permit from the commission pursuant to rules adopted under division (B) of this section, or any order of the commission suspending the transportation of hazardous materials into, through, or within this state by a carrier that has obtained a uniform permit from another state that has a reciprocity agreement with the commission under division (C) of this section. The court of appeals shall hear and determine those appeals in the same manner and under the same standards as the Ohio supreme court hears and determines appeals under Chapter 4903. of the Revised Code. The judgment of the court of appeals is final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken either by the commission or the person to whom the order was issued and shall proceed as in the case of appeals in civil actions as provided in Chapter 2505. of the Revised Code.

(2) Section 4903.11 of the Revised Code does not apply to appeals of any order of the commission suspending, revoking, or denying a uniform permit of a person that has obtained or applied for a uniform permit from the commission pursuant to rules adopted under division (B) of this section, or of any order of the

commission suspending the transportation of hazardous materials into, through, or within this state by a carrier that has obtained a uniform permit from another state that has a reciprocity agreement with the commission pursuant to division (C) of this section. Any person to whom such an order is issued who wishes to contest the order shall file, within sixty days after the entry of the order upon the journal of the commission, a notice of appeal, setting forth the order appealed from and the errors complained of. The notice of appeal shall be served, unless waived, upon the chairperson of the commission or, in the event of the chairperson's absence, upon any public utilities commissioner, or by leaving a copy at the office of the commission at Columbus. On appeal, the court shall reverse, vacate, or modify the order if, upon consideration of the record, the court is of the opinion that the order was unlawful or unreasonable.

Sec. 4921.16. (A) Information submitted to the public utilities commission as part of a uniform registration application, pursuant to rules adopted under division (B) of section 4921.15 of the Revised Code, is a public record and is subject to section 149.43 of the Revised Code.

(B) Except for information related to corporate structure and personnel, information that is submitted to the commission as part of a uniform permit application, pursuant to rules adopted under division (B) of section 4921.15 of the Revised Code, is a public record and is subject to section 149.43 of the Revised Code. Information that is related to corporate structure and personnel that is submitted to the commission as part of a uniform permit application, pursuant to rules adopted under division (B) of section 4921.15 of the Revised Code, is not a public record and is not subject to section 149.43 of the Revised Code. Except as provided in division (D) of this section, the commission shall not disclose to any person any information that is related to

corporate structure and personnel that is submitted as part of a uniform permit application.

(C) Information that is submitted for any background investigation for an application for a uniform permit as a carrier of hazardous wastes is not a public record and is not subject to section 149.43 of the Revised Code. Except as provided in division (D) of this section, the commission shall not disclose to any person any information submitted for any background investigation for such an application.

(D) The commission may disclose to its authorized employees and to any federal agencies, state agencies of this state or another state, local government agencies of this state or another state, or the national repository established pursuant to the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819, any information submitted to the commission as part of a uniform permit application that is related to corporate structure and personnel or submitted for any background investigation for an application for a uniform permit as a carrier of hazardous wastes if all of the following conditions are met:

(1) The commission enters into a confidentiality agreement with the employee, agency, or national repository under which that employee or entity agrees not to disclose to any third party any information related to corporate structure or personnel or any information submitted as part of a background investigation unless the third party enters into a confidentiality agreement with the commission consistent with this division.

(2) The employee, agency, or national repository certifies to the commission that it is not required by any state or federal law to disclose any information related to corporate structure or

personnel or any information submitted as part of a background investigation.

(3) The federal agency, state or local government agency of another state, or national repository irrevocably consents in writing to the jurisdiction of the courts of this state and service of process in this state, including, without limitation, summonses and subpoenas, for any civil proceeding arising out of an intentional disclosure of information in violation of this division.

(E) Any person who intentionally discloses information in violation of division (D) of this section is liable to the owner of the information for civil damages caused by the disclosure.

Sec. 4921.19. (A) Every for-hire motor carrier operating in this state shall, at the time of the issuance of a certificate of public convenience and necessity under section 4921.03 of the Revised Code, pay to the public utilities commission, for and on behalf of the treasurer of state, the following taxes:

(1) For each motor vehicle used for transporting persons, thirty dollars;

(2) For each commercial tractor, as defined in section 4501.01 of the Revised Code, used for transporting property, thirty dollars;

(3) For each other motor vehicle transporting property, twenty dollars.

(B) Every for-hire motor carrier operating in this state solely in intrastate commerce shall, annually between the first day of May and the thirtieth day of June, pay to the commission, for and on behalf of the treasurer of state, the following taxes:

(1) For each motor vehicle used for transporting persons, thirty dollars;

(2) For each commercial tractor, as defined in section 4501.01 of the Revised Code, used for transporting property, thirty dollars;

(3) For each other motor vehicle transporting property, twenty dollars.

(C) After a for-hire motor carrier has paid the applicable taxes under division (B) of this section and all requirements under division (C) of section 4921.13 of the Revised Code have been met, the commission shall issue the carrier a tax receipt. The carrier shall carry a copy of the tax receipt in each motor vehicle operated by the carrier. The carrier shall maintain the original copy of the tax receipt at the carrier's primary place of business.

(D) A trailer used by a for-hire motor carrier shall not be taxed under this section.

(E) The annual tax levied by division (B) of this section does not apply in those cases where the commission finds that the movement of agricultural commodities or foodstuffs produced therefrom requires a temporary and seasonal use of vehicular equipment for a period of not more than ninety days. In such event, the tax on the vehicular equipment shall be twenty-five per cent of the annual tax levied by division (B) of this section. If any vehicular equipment is used in excess of the ninety-day period, the annual tax levied by this section shall be paid.

(F) All taxes levied by division (B) of this section shall be reckoned as from the beginning of the quarter in which the tax receipt is issued or as from when the use of equipment under any existing tax receipt began.

(G) The fees for unified carrier registration pursuant to section 4921.11 of the Revised Code shall be identical to those established by the unified carrier registration act board as

approved by the federal motor carrier safety administration for each year.

(H)(1) The fees for uniform registration and a uniform permit as a carrier of hazardous materials pursuant to section 4921.15 of the Revised Code shall consist of the following:

(a) A processing fee of fifty dollars;

(b) An apportioned per-truck registration fee, which shall be calculated by multiplying the percentage of a registrant's activity in this state times the percentage of the registrant's business that is hazardous-materials-related, times the number of vehicles owned or operated by the registrant, times a per-truck fee determined by order of the commission following public notice and an opportunity for comment.

(i) The percentage of a registrant's activity in this state shall be calculated by dividing the number of miles that the registrant travels in this state under the international registration plan, pursuant to section 4503.61 of the Revised Code, by the number of miles that the registrant travels nationwide under the international registration plan. Registrants that operate solely within this state shall use one hundred per cent as their percentage of activity. Registrants that do not register their vehicles through the international registration plan shall calculate activity in the state in the same manner as that required by the international registration plan.

(ii) The percentage of a registrant's business that is hazardous-materials-related shall be calculated, for less-than-truckload shipments, by dividing the weight of all the registrant's hazardous materials shipments by the total weight of all shipments in the previous year. The percentage of a registrant's business that is hazardous-materials-related shall be calculated, for truckload shipments, by dividing the number of

shipments for which placarding, marking of the vehicle, or manifesting, as appropriate, was required by regulations adopted under sections 4 to 6 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C. App. 1804, by the total number of the registrant's shipments that transported any kind of goods in the previous year. A registrant that transports both less-than-truckload and truckload shipments of hazardous materials shall calculate the percentage of business that is hazardous-materials-related on a proportional basis.

(iii) A registrant may utilize fiscal year, or calendar year, or other current company accounting data, or other publicly available information, in calculating the percentages required by divisions (H)(1)(b)(i) and (ii) of this section.

(2) The commission, after notice and opportunity for a hearing, may assess each carrier a fee for any background investigation required for the issuance, for the purpose of section 3734.15 of the Revised Code, of a uniform permit as a carrier of hazardous wastes and fees related to investigations and proceedings for the denial, suspension, or revocation of a uniform permit as a carrier of hazardous materials. The fees shall not exceed the reasonable costs of the investigations and proceedings. The fee for a background investigation for a uniform permit as a carrier of hazardous wastes shall be six hundred dollars plus the costs of obtaining any necessary information not included in the permit application, to be calculated at the rate of thirty dollars per hour, not exceeding six hundred dollars, plus any fees payable to obtain necessary information.

(I) The application fee for a certificate for the transportation of household goods issued pursuant to sections 4921.30 to 4921.38 of the Revised Code shall be based on the certificate holder's gross revenue, in the prior year, for the intrastate transportation of household goods. The commission shall

establish, by order, ranges of gross revenue and the fee for each range. The fees shall be set in amounts sufficient to carry out the purposes of sections 4921.30 to 4921.38 and 4923.99 of the Revised Code and, to the extent necessary, the commission shall make changes to the fee structure to ensure that neither over nor under collection of the fees occurs. The fees shall also take into consideration the revenue generated from the assessment of forfeitures under section 4923.99 of the Revised Code regarding the consumer protection provisions applicable to for-hire motor carriers engaged in the transportation of household goods.

(J) The fees and taxes provided under this section shall be in addition to taxes, fees, and charges fixed and exacted by other sections of the Revised Code, except the assessments required by section 4905.10 of the Revised Code, but all fees, license fees, annual payments, license taxes, or taxes or other money exactions, except the general property tax, assessed, charged, fixed, or exacted by local authorities such as municipal corporations, townships, counties, or other local boards, or the officers of such subdivisions are illegal and, are superseded by sections 4503.04 and 4905.03 and Chapter 4921. of the Revised Code. On compliance with sections 4503.04 and 4905.03 and Chapter 4921. of the Revised Code, all local ordinances, resolutions, by laws, and rules in force shall cease to be operative as to the persons in compliance, except that such local subdivisions may make reasonable local police regulations within their respective boundaries not inconsistent with sections 4503.04 and 4905.03 and Chapter 4921. of the Revised Code.

Sec. 4921.21. (A) As used in this section, "adjusted credit amount" means the aggregate amount credited to the public utilities transportation safety fund, less the sum of all of the following:

(1) The fees collected by the public utilities commission, in accordance with the unified carrier registration plan under section 4921.11 of the Revised Code, that exceed the federal certification of revenue for each year of the plan;

(2) The fees collected by the commission on behalf of other states under division (C) of section 4921.15 of the Revised Code;

(3) The forfeitures collected by the commission under section 4923.99 of the Revised Code for violations of rules adopted under division (A)(2) of section 4923.04 of the Revised Code.

(B)(1) There is hereby created in the state treasury the public utilities transportation safety fund. The fees collected in accordance with the unified carrier registration plan under section 4921.11 of the Revised Code, the fees collected under section 4921.15 of the Revised Code, the taxes and fees remitted under section 4921.19 of the Revised Code, the forfeitures imposed under section 4923.99 of the Revised Code, except as provided in division (B)(2) of this section, and the fines collected under section 4163.07 of the Revised Code shall be deposited into the state treasury to the credit of the public utilities transportation safety fund, until the adjusted credit amount in a fiscal year is equal to the total amount appropriated from the fund for the fiscal year. Once this point of parity is reached, any additional fees, taxes, forfeitures, or fines received during the fiscal year shall be credited to the general revenue fund, except as provided in division (B)(2) of this section, and except for both of the following:

(a) The fees collected in accordance with the unified carrier registration plan under section 4921.11 of the Revised Code, that exceed the federal certification of revenue for each year of the plan;

(b) The fees collected on behalf of other states under

division (C) of section 4921.15 of the Revised Code.

(2) The first eight hundred thousand dollars of forfeitures collected under section 4923.99 of the Revised Code, for violations of rules adopted under division (A)(2) of section 4923.04 of the Revised Code, during each fiscal year shall be credited to the public utilities transportation safety fund. Any forfeitures in excess of that amount shall be deposited into the general revenue fund. In each fiscal year, the commission shall distribute moneys from these forfeitures credited to the public utilities transportation safety fund for the purposes of emergency response planning and the training of safety, enforcement, and emergency services personnel in proper techniques for the management of hazardous materials releases that occur during transportation or otherwise. For these purposes, fifty per cent of all such moneys credited to the public utilities transportation safety fund shall be distributed to Cleveland state university, forty-five per cent shall be distributed to other educational institutions, state agencies, regional planning commissions, and political subdivisions, and five per cent shall be retained by the commission for the administration of this section and for training employees. However, if, in any such period, moneys from these forfeitures credited to the public utilities transportation safety fund equal an amount less than four hundred thousand dollars, the commission shall distribute, to the extent of the aggregate amount of those moneys, two hundred thousand dollars to Cleveland state university and the remainder to other educational institutions, state agencies, regional planning commissions, and political subdivisions.

(C) The purpose of the public utilities transportation safety fund shall be for defraying all expenses incident to maintaining the nonrailroad transportation activities of the commission.

(D) There is hereby created in the state treasury the federal

commercial vehicle transportation systems fund. The fund shall consist of money received from the United States department of transportation's commercial vehicle intelligent transportation systems infrastructure deployment program. The public utilities commission shall use the fund to deploy the Ohio commercial vehicle information systems networks project and to improve safety of motor carrier operations through electronic exchange of data.

(E) There is hereby created in the state treasury the motor carrier safety fund. The fund shall consist of money received from the United States department of transportation for motor carrier safety. The commission shall use the fund to administer the state's motor carrier safety assistance program and associated grants, including the motor carrier safety assistance program basic grant, the incentive grant, the high priority grants, the new entrant safety assurance grant, the safety data improvement grant, or their equivalents.

(F) If the director of budget and management determines there is not sufficient money in the public utilities transportation safety fund, the director shall transfer money from the general revenue fund to the public utilities transportation safety fund in an amount up to the difference between the balance of the public utilities transportation safety fund and the appropriations from that fund. If the director subsequently determines during the fiscal year that the balance of the public utilities transportation safety fund exceeds the amount needed to support the appropriations from the fund, the director shall transfer the excess money, up to the amount of the original transfer, to the general revenue fund.

Sec. 4921.25. Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, that is engaged in the towing

of motor vehicles is subject to regulation by the public utilities commission as a for-hire motor carrier under this chapter. Such an entity is not subject to any ordinance, rule, or resolution of a municipal corporation, county, or township that provides for the licensing, registering, or regulation of entities that tow motor vehicles.

Sec. 4921.30. Except as otherwise provided in sections 4921.32 to 4921.38 of the Revised Code, a for-hire motor carrier engaged in the transportation of household goods in intrastate commerce:

(A) Is subject to Chapter 4921. of the Revised Code and to all other provisions of the Revised Code applicable to a for-hire motor carrier, including sections 4506.22, 4511.78, 5502.01, 5503.02, and 5503.34 of the Revised Code;

(B) Is not a public utility as defined in section 4911.01 of the Revised Code.

Sec. 4921.32. Notwithstanding any provision of this chapter or Chapters 4901. to 4909. and 4923. of the Revised Code to the contrary:

(A) Not later than six months after the effective date of this section, the public utilities commission, in accordance with sections 4921.30 to 4921.38 of the Revised Code, shall establish by order a certification system for for-hire motor carriers engaged in the transportation of household goods in intrastate commerce.

(B) Beginning on the effective date of the order of the commission as initially issued under division (A) of this section, no for-hire motor carrier shall engage in the transportation of household goods in intrastate commerce without first holding a current and valid certificate for the transportation of household

goods issued by the commission pursuant to sections 4921.30 to 4921.38 of the Revised Code.

Sec. 4921.34. (A) The public utilities commission shall approve an application for a certificate for the transportation of household goods under sections 4921.30 to 4921.38 of the Revised Code and shall issue a certificate, provided the applicant pays the applicable application fee under division (I) of section 4921.19 of the Revised Code and submits to the commission a completed application, on a form prescribed by the commission, that is substantially the same as the application prescribed by the commission pursuant to section 4921.05 of the Revised Code, and includes a certification of all of the following by responsible officials of the applicant:

(1) The applicant's workers' compensation coverage is current pursuant to Chapter 4123. of the Revised Code.

(2) The applicant's unemployment compensation coverage is current pursuant to Chapter 4141. of the Revised Code.

(3) The applicant's financial responsibility is in accordance with rules adopted by the commission under section 4921.09 of the Revised Code.

(B) The commission shall not approve any application that does not contain the proper certifications required by this section. The commission may revoke a certificate issued under division (A) of this section if, after at least fifteen days' advance notice to the certificate holder of the basis for such action and providing the holder with an opportunity for a hearing, the commission finds that the holder is not in compliance with this chapter, or rules adopted or orders issued under it.

(C) A certificate issued under division (A) of this section is valid for one year and is renewable annually.

Sec. 4921.36. Each holder of a certificate for the transportation of household goods shall do all of the following:

(A) Make its current certificate available for public inspection during normal business hours;

(B) Present each of its customers with information, written in plain and clear language and pursuant to a form prescribed by the public utilities commission, outlining a consumer's rights;

(C) Include its certificate number on all advertising, written estimates, and contracts, pursuant to rules adopted by the commission.

Sec. 4921.38. In accordance with sections 4921.30 to 4921.36 of the Revised Code, the public utilities commission may adopt rules regarding any of the following:

(A) Providing for binding estimates by for-hire motor carriers engaged in the transportation of household goods in intrastate commerce;

(B) Providing for guaranteed-not-to-exceed estimates by those carriers;

(C) Requiring those carriers to include their certificate number in all advertising, written estimates, and contracts related to the transportation of household goods in intrastate commerce;

(D) As are necessary and proper to carry out this chapter with respect to those carriers;

(E) Providing for the enforcement of the consumer protection provisions of Title 49 of the United States Code related to the delivery and transportation of household goods in interstate commerce, as permitted by 49 U.S.C. 14710.

Sec. 4923.01. As used in this chapter:

(A) "Ambulance," "interstate commerce," "intrastate commerce," "motor vehicle," "public highway," "ridesharing arrangement," and "school bus" have the same meanings as in section 4921.01 of the Revised Code.

(B) "For-hire motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in any of the following in intrastate commerce:

(1) The transportation of persons in taxicabs in the usual taxicab service;

(2) The transportation of pupils in school busses operating to or from school sessions or school events;

(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;

(4) The distribution of newspapers;

(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;

(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;

(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;

(8) The transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose;

(9) The operation of motor vehicles for contractors on public road work.

"For-hire motor carrier" includes the carrier's agents,

officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories.

Divisions (B)(1) to (9) of this section shall not be construed to relieve a person from compliance with rules adopted under division (A)(2) of section 4923.04 of the Revised Code, division (E) of section 4923.06 of the Revised Code, division (B) of section 4923.07 of the Revised Code, and section 4923.11 of the Revised Code, or from compliance with rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code.

(C) "Motor carrier" means both a for-hire motor carrier and a private motor carrier.

(D) "Private motor carrier" means a person who is not a for-hire motor carrier but is engaged in the business of transporting persons or property by motor vehicle, except as provided in section 4923.02 of the Revised Code. "Private motor carrier" includes the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories.

Sec. 4923.02. (A) As used in this chapter, "private motor carrier" does not include a person when engaged in any of the following in intrastate commerce:

(1) The transportation of persons in taxicabs in the usual taxicab service;

(2) The transportation of pupils in school busses operating to or from school sessions or school events;

(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;

(4) The distribution of newspapers;

(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;

(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;

(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;

(8) The transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose;

(9) The operation of motor vehicles for contractors on public road work.

(B) The public utilities commission may grant a motor carrier operating in intrastate commerce a temporary exemption from some or all of the provisions of this chapter and the rules adopted under it, when either of the following applies:

(1) The governor of this state has declared an emergency.

(2) The chairperson of the commission or the chairperson's designee has declared a transportation-specific emergency.

(C) The commission may adopt rules not incompatible with the requirements of the United States department of transportation to provide exemptions to motor carriers operating in intrastate commerce not otherwise identified in divisions (A) and (B) of this section.

(D) Divisions (A) to (C) of this section shall not be construed to relieve a person from compliance with either of the following:

(1) Rules adopted under division (A)(2) of section 4923.04 of the Revised Code, division (E) of section 4923.06 of the Revised Code, division (B) of section 4923.07 of the Revised Code, and section 4923.11 of the Revised Code;

(2) Rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code.

Sec. 4923.04. (A)(1) The public utilities commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce.

(2) The commission shall adopt rules applicable to the highway transportation and offering for transportation of hazardous materials by motor carriers, and persons engaging in the highway transportation and offering for transportation of hazardous materials, operating in interstate or intrastate commerce.

(B) The rules adopted under division (A) of this section shall not be incompatible with the requirements of the United States department of transportation.

(C) To achieve the purposes of this chapter and to assist the commission in the performance of any of its powers or duties, the commission, either through the public utilities commissioners or employees authorized by it, may do either or both of the following:

(1) Apply for, and any judge of a court of record of competent jurisdiction may issue, an appropriate search warrant;

(2) Examine under oath, at the offices of the commission, any officer, agent, or employee of any person subject to this chapter. The commission, by subpoena, also may compel the attendance of a witness for the purpose of the examination and, by subpoena duces

tecum, may compel the production of all books, contracts, records, and documents that relate to the transportation and offering for transportation of hazardous materials.

Sec. 4923.06. (A) The public utilities commission may, through the commission's inspectors or other authorized employees, enter in or upon any motor vehicle of any motor carrier, or any person engaging in the transportation of hazardous material or hazardous waste, to inspect the motor vehicle or driver subject to rules adopted under section 4923.04 of the Revised Code.

(B) In order to assist the commission in performing its duties under this section, authorized employees of the state highway patrol of the department of public safety may conduct inspections of motor vehicles and drivers.

(C) Inspectors and employees authorized to conduct inspections under divisions (A) and (B) of this section may, under the direction of the commission, stop motor vehicles to inspect those vehicles and drivers to enforce compliance with rules adopted under section 4923.04 of the Revised Code.

(D) Inspectors and employees authorized to conduct inspections under divisions (A) and (B) of this section shall conduct inspections consistent with the North American standard inspection procedure of the commercial vehicle safety alliance and the standards of the United States department of transportation. The inspectors and employees may declare drivers and motor vehicles out-of-service consistent with this procedure and these standards.

(E) The commission may adopt rules to carry out this section that are not incompatible with the requirements of the United States department of transportation.

Sec. 4923.07. (A) The public utilities commission may,

through the commission's inspectors or other authorized employees, enter in or upon the premises and motor vehicles of any motor carrier, or any person engaging in the transportation of hazardous material or hazardous waste, to examine any records, documents, or property for the purpose of assessing the safety, performance, and management controls associated with the carrier or person.

(B) The commission may adopt rules to carry out this section that are not incompatible with the requirements of the United States department of transportation.

Sec. 4923.09. The public utilities commission shall cooperate with and permit the use of the services, records, and facilities of the commission as fully as practicable by appropriate officers of the United States department of transportation, other federal agencies or commissions, and appropriate commissions of other states in the enforcement and administration of state and federal laws relating to highway transportation by motor vehicles. The commission may enter into cooperative agreements with the United States department of transportation and any other federal agency or commission to enforce the safety laws and rules of this state and of the United States concerning highway transportation by motor vehicles. All grants-in-aid, cash, and reimbursements received by the commission pursuant to those cooperative agreements shall be deposited to the credit of the motor carrier safety fund created under section 4921.21 of the Revised Code.

Sec. 4923.11. The public utilities commission may adopt rules applicable to the highway routing of hazardous materials into, through, or within this state. Rules adopted under this section shall not be incompatible with requirements of the United States department of transportation.

Sec. 4923.15. Proceedings of the public utilities commission for the assessment of forfeitures for violations of Chapters 4921. and 4923. of the Revised Code are subject to and governed by section 4923.99 of the Revised Code. In all other respects in which the commission has power and authority under Chapters 4921. and 4923. of the Revised Code, applications and complaints may be made and filed with the commission, processes may be issued, hearings may be held, opinions, orders, and decisions may be made and filed, petitions for rehearing may be filed and acted upon, and all proceedings before the supreme court of this state may be considered and disposed of by that court in the manner, under the conditions, subject to the limitations, and with the effect specified in the sections of the Revised Code governing the supervision of public utilities by the commission.

Sec. 4923.99. (A)(1) Whoever violates Chapter 4921. or 4923. of the Revised Code is liable to the state for a forfeiture of not more than twenty-five thousand dollars for each day of each violation. The public utilities commission, after providing reasonable notice and the opportunity for a hearing in accordance with the procedural rules adopted under section 4901.13 of the Revised Code, shall assess, by order, a forfeiture upon a person whom the commission determines, by a preponderance of the evidence, committed the violation. In determining the amount of the forfeiture for a violation discovered during a driver or motor-vehicle inspection under section 4923.06 of the Revised Code, the commission shall, to the extent practicable, not act in a manner incompatible with the requirements of the United States department of transportation, and, to the extent practicable, shall utilize a system comparable to the recommended civil-penalty procedure adopted by the commercial vehicle safety alliance. In determining the amount of the forfeiture for a violation

discovered during a compliance review of a motor carrier under section 4923.07 of the Revised Code, the commission shall, to the extent practicable, not act in a manner incompatible with the civil-penalty guidelines of the United States department of transportation.

The attorney general, upon the written request of the commission, shall bring a civil action in the court of common pleas of Franklin county to collect a forfeiture assessed under this section. The commission shall account for the forfeitures collected under this section and pay them to the treasurer of state under section 4921.21 of the Revised Code.

(2) The attorney general, upon the written request of the commission, shall bring an action for injunctive relief in the court of common pleas of Franklin county against any person who has violated or is violating any order issued by the commission to secure compliance with any provision of Chapter 4921. or 4923. of the Revised Code. The court of common pleas of Franklin county has jurisdiction to and may grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated or is violating any such order. The court shall give precedence to such an action over all other cases.

(B) The amount of any forfeiture may be compromised at any time prior to collection of the forfeiture. The commission shall adopt rules governing the manner in which the amount of a forfeiture may be established by agreement prior to the hearing on the forfeiture before the commission.

(C) The proceedings of the commission specified in division (A) of this section are subject to and governed by Chapter 4903. of the Revised Code, except as otherwise specifically provided in this section. The court of appeals of Franklin county has exclusive, original jurisdiction to review, modify, or vacate an order of the commission issued to secure compliance with any

provision of Chapter 4921. or 4923. of the Revised Code. The court of appeals shall hear and determine those appeals in the same manner, and under the same standards, as the supreme court hears and determines appeals under Chapter 4903. of the Revised Code. The judgment of the court of appeals is final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken either by the commission or the person to whom the compliance order or forfeiture assessment was issued and shall proceed as in the case of appeals in civil actions as provided in the rules of appellate procedure and Chapter 2505. of the Revised Code.

(D) Section 4903.11 of the Revised Code does not apply to an appeal of an order issued to secure compliance with Chapter 4921. or 4923. of the Revised Code or an order issued under division (A)(1) of this section assessing a forfeiture. Any person to whom any such order is issued who wishes to contest a compliance order, the fact of the violation, or the amount of the forfeiture shall file a notice of appeal, setting forth the order appealed from and the errors complained of, within sixty days after the entry of the order upon the journal of the commission. The notice of appeal shall be served, unless waived, upon the chairperson of the commission or, in the event of the chairperson's absence, upon any public utilities commissioner, or by leaving a copy at the office of the commission at Columbus. An order issued by the commission to secure compliance with Chapter 4921. or 4923. of the Revised Code or an order issued under division (A)(1) of this section assessing a forfeiture shall be reversed, vacated, or modified on appeal if, upon consideration of the record, the court is of the opinion that the order was unlawful or unreasonable.

(E) Only for such violations that constitute violations of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1804 and 1805, or

regulations adopted under the act, the commission, in determining liability, shall use the same standard of culpability for civil forfeitures under this section as that set forth for civil penalties under section 12 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1809. The commission shall consider the assessment considerations for civil penalties specified in regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C. 1801.

Sec. 4927.01. (A) As used in this chapter:

(1) "Basic local exchange service" means residential-end-user access to and usage of telephone-company-provided services over a single line or small-business-end-user access to and usage of telephone-company-provided services over the primary access line of service, which in the case of residential and small-business access and usage is not part of a bundle or package of services, that does both of the following:

(a) Enables a customer to originate or receive voice communications within a local service area as that area exists on September 13, 2010, the effective date of the amendment of this section by S.B. 162 of the 128th general assembly;

(b) Consists of all of the following services:

(i) Local dial tone service;

(ii) For residential end users, flat-rate telephone exchange service;

(iii) Touch tone dialing service;

(iv) Access to and usage of 9-1-1 services, where such services are available;

(v) Access to operator services and directory assistance;

(vi) Provision of a telephone directory in any reasonable format for no additional charge and a listing in that directory, with reasonable accommodations made for private listings;

(vii) Per call, caller identification blocking services;

(viii) Access to telecommunications relay service; and

(ix) Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies.

(2) "Bundle or package of services" means one or more telecommunications services or other services offered together as one service option at a single price.

(3) "Carrier access" means access to and usage of telephone company-provided facilities that enable end user customers originating or receiving voice grade, data, or image communications, over a local exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access.

(4) "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) On February 8, 1996, provided telephone exchange service in such area; and

(b)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b); or

(ii) Is a person or entity that, on or after February 8,

1996, became a successor or assign of a member described in division (A)(5)(b)(i) of this section.

(6) "Internet protocol-enabled services" means any services, capabilities, functionalities, or applications that are provided using internet protocol or a successor protocol to enable an end user to send or receive communications in internet protocol format or a successor format, regardless of how any particular such service is classified by the federal communications commission, and includes voice over internet protocol service.

(7) "Local exchange carrier" means any person engaged in the provision of telephone exchange service, or the offering of access to telephone exchange service or facilities for the purpose of originating or terminating telephone toll service.

(8) "Local service area" means the geographic area that may encompass more than one exchange area and within which a telephone customer, by paying the rate for basic local exchange service, may complete calls to other telephone customers without being assessed long distance toll charges.

(9) "Small business" means a nonresidential service customer with three or fewer service access lines.

(10) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(11) "Telecommunications carrier" has the same meaning as in the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153.

(12) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(13) "Telephone company" means a company described in division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code.

(14) "Telephone exchange service" means telecommunications service that is within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by the exchange service charge; or comparable service provided through a system of switches, transmission equipment, or other facilities, or combination thereof, by which a customer can originate and terminate a telecommunications service.

(15) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with customers for exchange service.

(16) "Voice over internet protocol service" means a service that uses a broadband connection from an end user's location and enables real-time, two-way, voice communications that originate or terminate from the user's location using internet protocol or a successor protocol, including, but not limited to, any such service that permits an end user to receive calls from and terminate calls to the public switched network.

(17) "Wireless service" means federally licensed commercial mobile service as defined in the "Telecommunications Act of 1996," 110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3. Under division (A)(17) of this section, commercial mobile radio service is specifically limited to mobile telephone, mobile cellular telephone, paging, personal communications services, and specialized mobile radio service provided by a common carrier in this state and excludes fixed wireless service.

(18) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(B) The definitions of this section shall be applied consistent with the definitions in the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with federal decisions interpreting those definitions.

Sec. 4929.01. As used in this chapter:

(A) "Alternative rate plan" means a method, alternate to the method of section 4909.15 of the Revised Code, for establishing rates and charges, under which rates and charges may be established for a commodity sales service or ancillary service that is not exempt pursuant to section 4929.04 of the Revised Code or for a distribution service. Alternative rate plans may include, but are not limited to, methods that provide adequate and reliable natural gas services and goods in this state; minimize the costs and time expended in the regulatory process; tend to assess the costs of any natural gas service or goods to the entity, service, or goods that cause such costs to be incurred; afford rate stability; promote and reward efficiency, quality of service, or cost containment by a natural gas company; provide sufficient flexibility and incentives to the natural gas industry to achieve high quality, technologically advanced, and readily available natural gas services and goods at just and reasonable rates and charges; or establish revenue decoupling mechanisms. Alternative rate plans also may include, but are not limited to, automatic adjustments based on a specified index or changes in a specified cost or costs.

(B) "Ancillary service" means a service that is ancillary to the receipt or delivery of natural gas to consumers, including, but not limited to, storage, pooling, balancing, and transmission.

(C) "Commodity sales service" means the sale of natural gas to consumers, exclusive of any distribution or ancillary service.

(D) "Comparable service" means any regulated service or goods whose availability, quality, price, terms, and conditions are the same as or better than those of the services or goods that the natural gas company provides to a person with which it is affiliated or which it controls, or, as to any consumer, that the natural gas company offers to that consumer as part of a bundled service that includes both regulated and exempt services or goods.

(E) "Consumer" means any person or association of persons purchasing, delivering, storing, or transporting, or seeking to purchase, deliver, store, or transport, natural gas, including industrial consumers, commercial consumers, and residential consumers, but not including natural gas companies.

(F) "Distribution service" means the delivery of natural gas to a consumer at the consumer's facilities, by and through the instrumentalities and facilities of a natural gas company, regardless of the party having title to the natural gas.

(G) "Natural gas company" means a natural gas company, as defined in section 4905.03 of the Revised Code, that is a public utility as defined in section 4905.02 of the Revised Code and excludes a retail natural gas supplier.

(H) "Person," except as provided in division (N) of this section, has the same meaning as in section 1.59 of the Revised Code, and includes this state and any political subdivision, agency, or other instrumentality of this state and includes the United States and any agency or other instrumentality of the United States.

(I) "Billing or collection agent" means a fully independent agent, not affiliated with or otherwise controlled by a retail natural gas supplier or governmental aggregator subject to

certification under section 4929.20 of the Revised Code, to the extent that the agent is under contract with such supplier or aggregator solely to provide billing and collection for competitive retail natural gas service on behalf of the supplier or aggregator.

(J) "Competitive retail natural gas service" means any retail natural gas service that may be competitively offered to consumers in this state as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the public utilities commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code.

(K) "Governmental aggregator" means either of the following:

(1) A legislative authority of a municipal corporation, a board of township trustees, or a board of county commissioners acting exclusively under section 4929.26 or 4929.27 of the Revised Code as an aggregator for the provision of competitive retail natural gas service;

(2) A municipal corporation acting exclusively under Section 4 of Article XVIII, Ohio Constitution, as an aggregator for the provision of competitive retail natural gas service.

(L)(1) "Mercantile customer" means a customer that consumes, other than for residential use, more than five hundred thousand cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. "Mercantile customer" excludes a customer for which a declaration under division (L)(2) of this section is in effect pursuant to that division.

(2) A not-for-profit customer that consumes, other than for residential use, more than five hundred thousand cubic feet of

natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state may file a declaration under division (L)(2) of this section with the public utilities commission. The declaration shall take effect upon the date of filing, and by virtue of the declaration, the customer is not a mercantile customer for the purposes of this section and sections 4929.20 to 4929.29 of the Revised Code or the purposes of a governmental natural gas aggregation or arrangement or other contract entered into after the declaration's effective date for the supply or arranging of the supply of natural gas to the customer to a location within this state. The customer may file a rescission of the declaration with the commission at any time. The rescission shall not affect any governmental natural gas aggregation or arrangement or other contract entered into by the customer prior to the date of the filing of the rescission and shall have effect only with respect to any subsequent such aggregation or arrangement or other contract. The commission shall prescribe rules under section 4929.10 of the Revised Code specifying the form of the declaration or a rescission and procedures by which a declaration or rescission may be filed.

(M) "Retail natural gas service" means commodity sales service, ancillary service, natural gas aggregation service, natural gas marketing service, or natural gas brokerage service.

(N) "Retail natural gas supplier" means any person, as defined in section 1.59 of the Revised Code, that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of a competitive retail natural gas service to consumers in this state that are not mercantile customers. "Retail natural gas supplier" includes a marketer, broker, or aggregator, but excludes a natural gas company, a

governmental aggregator as defined in division (K)(1) or (2) of this section, an entity described in division ~~(B)~~(A)(2) or ~~(C)~~(3) of section 4905.02 of the Revised Code, or a billing or collection agent, and excludes a producer or gatherer of gas to the extent such producer or gatherer is not a natural gas company under section 4905.03 of the Revised Code.

(O) "Revenue decoupling mechanism" means a rate design or other cost recovery mechanism that provides recovery of the fixed costs of service and a fair and reasonable rate of return, irrespective of system throughput or volumetric sales.

Sec. 4929.02. (A) It is the policy of this state to, throughout this state:

(1) Promote the availability to consumers of adequate, reliable, and reasonably priced natural gas services and goods;

(2) Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(3) Promote diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers;

(4) Encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods;

(5) Encourage cost-effective and efficient access to information regarding the operation of the distribution systems of natural gas companies in order to promote effective customer choice of natural gas services and goods;

(6) Recognize the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment;

(7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code;

(8) Promote effective competition in the provision of natural gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods;

(9) Ensure that the risks and rewards of a natural gas company's offering of nonjurisdictional and exempt services and goods do not affect the rates, prices, terms, or conditions of nonexempt, regulated services and goods of a natural gas company and do not affect the financial capability of a natural gas company to comply with the policy of this state specified in this section;

(10) Facilitate the state's competitiveness in the global economy;

(11) Facilitate additional choices for the supply of natural gas for residential consumers, including aggregation;

(12) Promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation.

(B) The public utilities commission and the office of the consumers' counsel shall follow the policy specified in this section in exercising their respective authorities relative to sections 4929.03 to 4929.30 of the Revised Code.

(C) Nothing in Chapter 4929. of the Revised Code shall be construed to alter the public utilities commission's construction or application of division ~~(A)(5)~~(E) of section 4905.03 of the Revised Code.

Sec. 4929.041. (A) As used in this section, "regulatory exemption" means an exemption from all provisions of Chapter 4905. of the Revised Code with the exception of sections 4905.10, 4905.35, and 4905.90 to 4905.96 of the Revised Code, Chapters 4909., 4933., and 4935. of the Revised Code, with the exception of section 4935.03 of the Revised Code, and from any rule or order issued under the exempted provisions of those chapters.

(B) The public utilities commission, upon ~~the~~ an application ~~of~~ filed under section 4909.18 of the Revised Code by a natural gas company in substantial compliance with the policy specified in section 4929.02 of the Revised Code, shall ~~exempt~~ grant a regulatory exemption, by order, ~~any investment~~ for either or both of the following:

(1) Any investments in ~~gathering lines or~~ storage or gathering facilities placed into service on or after January 1, 2010, and also any service of the natural gas company related to those ~~gathering lines or storage~~ facilities ~~from all provisions of Chapter 4905. of the Revised Code with the exception of sections 4905.10, 4905.35, and 4905.90 to 4905.96 of the Revised Code, Chapters 4909., 4933., and 4935. of the Revised Code, with the exception of section 4935.03 of the Revised Code, and from any rule or order issued under the exempted provisions of those chapters~~;

(2) Any investments in gathering facilities placed into service before January 1, 2010, and also any service of the natural gas company related to those facilities.

(C)(1) A natural gas company requesting a regulatory exemption under division (B)(2) of this section shall identify in the application both of the following:

(a) The valuation of the investments to be exempted, as determined under division (A)(1) of section 4909.15 of the Revised

Code, in the rate case proceeding that established the company's rates in effect at the time of the filing of the application requesting the regulatory exemption;

(b) The valuation of all nonexempt investments placed into service after the date certain used in the rate case proceeding described in division (C)(1)(a) of this section, excluding investments for which deferral or recovery is authorized under section 4909.18, 4929.05, or 4929.111 of the Revised Code.

(2) The commission shall compare the valuations identified in divisions (C)(1)(a) and (b) of this section.

(a) If the valuation identified in division (C)(1)(a) of this section exceeds the valuation identified in division (C)(1)(b) of this section, the commission shall, in addition to the adjustments needed to implement the regulatory exemption, reduce the gross annual revenues to which the utility is entitled under division (B) of section 4909.15 of the Revised Code by applying the rate of return, as determined under division (A)(2) of section 4909.15 of the Revised Code in the rate case proceeding in which the regulatory exemption is being sought, to the difference in the two valuations.

(b) If the valuation identified in division (C)(1)(a) of this section does not exceed the valuation identified in division (C)(1)(b) of this section, the commission shall make no adjustments beyond those needed to implement the regulatory exemption.

~~(B)~~(D)(1) Subject to division ~~(C)~~(E) of this section, a natural gas company subject to ~~an~~ a regulatory exemption ~~order issued under division (A) of this section~~ shall, to the maximum extent practicable, keep separate the company's operations, resources, and employees, and the associated books and records, involved in the provision or marketing of a company-provided

service related to an investment exempted under the regulatory exemption ~~order~~ from the operations, resources, and employees, and the associated books and records, involved in the provision or marketing of any company-provided service not exempted under the regulatory exemption ~~order~~ or any other section of the Revised Code.

(2) An order granting regulatory exemption ~~order issued under division (A) of this section~~ shall prescribe a functional separation plan for compliance with division ~~(B)~~(D)(1) of this section.

~~(C)~~(E)(1) No natural gas company subject to ~~an~~ a regulatory exemption ~~order issued under division (A) of this section~~ may use the company's storage ~~facilities and~~ or gathering ~~lines~~ facilities associated with the regulatory exemption ~~order~~ to provide a commodity sales service that is unregulated or subject to an exemption order issued under section 4929.04 of the Revised Code.

(2) Upon application to the commission by a natural gas company and upon a finding of good cause shown, the commission may, by order, waive the prohibition described in division ~~(C)~~(E)(1) of this section. The natural gas company shall bear the burden of proof that the waiver is just and reasonable, which shall constitute good cause.

~~(D)~~(F) The commission shall have continuous jurisdiction to enforce any terms that it imposes in ~~an~~ a regulatory exemption ~~order issued under division (A) of this section~~. Whenever the commission is of the opinion, after hearing had upon complaint or upon its own initiative or complaint, served as provided in section 4905.26 of the Revised Code, that ~~an~~ a regulatory exemption ~~order issued under division (A) of this section~~ has adversely affected the quality, adequacy, or sufficiency of service provided by the company subject to the regulatory

exemption ~~order~~, the commission may alter, amend, or suspend the regulatory exemption ~~order~~.

Sec. 4933.18. (A) In a prosecution for a theft offense, as defined in section 2913.01 of the Revised Code, that involves alleged tampering with a gas, electric, steam, or water meter, conduit, or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit, or attachment of a utility has been tampered with is prima-facie evidence that the person who is obligated to pay for the service rendered through the meter, conduit, or attachment and is in possession or control of the meter, conduit, or attachment at the time the tampering occurred has caused the tampering with intent to commit a theft offense.

In a prosecution for a theft offense, as defined in section 2913.01 of the Revised Code, that involves the alleged reconnection of a gas, electric, steam, or water meter, conduit, or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit, or attachment disconnected by a utility has been reconnected without the consent of the utility is prima-facie evidence that the person in possession or control of the meter, conduit, or attachment at the time of the reconnection has reconnected the meter, conduit, or attachment with intent to commit a theft offense.

(B) As used in this section:

(1) "Utility" means any electric light company, gas company, natural gas company, pipe-line company, water-works company, or heating or cooling company, as defined by division ~~(A)(3), (4), (5), (6), (7)~~(C), (D), (E), (F), (G), or ~~(8)~~(H) of section 4905.03 of the Revised Code, its lessees, trustees, or receivers, or any similar utility owned or operated by a political subdivision.

(2) "Tamper" means to interfere with, damage, or by-pass a

utility meter, conduit, or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on the meter.

Sec. 4933.19. Each electric light company, gas company, natural gas company, pipe-line company, water-works company, or heating or cooling company, as defined by division ~~(A)(3), (4), (5), (6), (7),~~(C), (D), (E), (F), (G), or ~~(8)~~(H) of section 4905.03 of the Revised Code, or its lessees, trustees, or receivers, and each similar utility owned or operated by a political subdivision shall notify its customers, on an annual basis, that tampering with or bypassing a meter constitutes a theft offense that could result in the imposition of criminal sanctions.

Sec. 4939.01. As used in sections 4939.01 to 4939.08 of the Revised Code:

(A) "Cable operator," "cable service," and "franchise" have the same meanings as in the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 522.

(B) "Occupy or use" means, with respect to a public way, to place a tangible thing in a public way for any purpose, including, but not limited to, constructing, repairing, positioning, maintaining, or operating lines, poles, pipes, conduits, ducts, equipment, or other structures, appurtenances, or facilities necessary for the delivery of public utility services or any services provided by a cable operator.

(C) "Person" means any natural person, corporation, or partnership and also includes any governmental entity.

(D) "Public utility" means any company described in section 4905.03 of the Revised Code except in divisions ~~(A)(2)~~(B) and

~~(9)~~(I) of that section, which company also is a public utility as defined in section 4905.02 of the Revised Code; and includes any electric supplier as defined in section 4933.81 of the Revised Code.

(E) "Public way" means the surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, and any other land dedicated or otherwise designated for a compatible public use, which, on or after ~~the effective date of this section~~ July 2, 2002, is owned or controlled by a municipal corporation. "Public way" excludes a private easement.

(F) "Public way fee" means a fee levied to recover the costs incurred by a municipal corporation and associated with the occupancy or use of a public way.

Sec. 4953.04. No union terminal company or corporation shall engage in the business of a for-hire motor ~~transportation service~~ carrier, as defined in ~~sections 4905.03, 4921.02, and 4923.02~~ 4921.01 of the Revised Code, over any public highway in this state, without obtaining authority from the public utilities commission, and complying with all laws governing every corporation or company when engaged or proposing to engage in ~~such~~ the business of a for-hire motor ~~transportation service~~ carrier.

Sec. 4961.03. Any railroad company owning or operating a railroad in this state may own, control, operate, or manage motor vehicles for the purpose of transporting persons or property, or both, upon the public highways for hire, subject to ~~sections 4921.02 to 4921.32, inclusive,~~ Chapters 4921. and 4923. of the Revised Code. Any railroad company may also own and operate

equipment for and engage in the business of aerial transportation. Any railroad company may acquire, own, and hold capital stock and securities of corporations organized for or engaged in the businesses authorized in this section and may operate the properties, or any part thereof, of such corporations, and may enter into working arrangements and agreements with such corporations.

Sec. 4965.54. Any common carrier, railroad, or ~~transportation company~~ motor carrier receiving property at a point within this state for transportation to a point within this state, shall issue a receipt or bill of lading for such property and is liable to the lawful holder of it for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property is delivered or over whose line such property passes. No contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or ~~transportation company~~ motor carrier from the liability imposed by this section. This section does not deprive any holder of such receipt or bill of lading of any remedy or right of action which ~~he~~ the holder has under existing law.

The common carrier, railroad, or ~~transportation company~~ motor carrier issuing such receipt or bill of lading may recover from the common carrier, railroad, or ~~transportation company~~ motor carrier on whose line the loss, damage, or injury was sustained the amount of such loss, damage, or injury it is required to pay the owners of such property as is evidenced by any receipt, judgment, or transcript thereof.

As used in this section, "motor carrier" has the same meaning as in section 4923.01 of the Revised Code.

Sec. 5101.01. (A) As used in the Revised Code, the

"department of public welfare" and the "department of human services" mean the department of job and family services and the "director of public welfare" and the "director of human services" mean the director of job and family services. Whenever the department or director of public welfare or the department or director of human services is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation shall be deemed to refer to the department or director of job and family services, as the case may be.

(B) As used in this chapter ~~of the Revised Code~~:

(1) References ~~to counties or~~ to a county ~~departments~~ department of job and family services include ~~the~~ a joint county department of job and family services established under section 329.40 of the Revised Code.

(2) References to ~~boards~~ a board of county commissioners include ~~boards~~ the board of directors of ~~the~~ a joint county department of job and family services established under section 329.40 of the Revised Code.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus

Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of job and family services;

(b) Twelve and ninety-three ~~one-hundreths~~ one-hundredths per cent to the department of mental health;

(c) Fourteen and fifty-seven ~~one-hundreths~~ one-hundredths per cent to the department of developmental disabilities.

(2) Each of the state departments shall, subject to the approval of the controlling board, develop a formula for the distribution of the Title XX funds appropriated to the department to its respective local agencies. The formula developed by each state department shall take into account all of the following for each of its respective local agencies:

(a) The total population of the area that is served by the respective local agency;

(b) The percentage of the population in the area served that falls below the federal poverty guidelines;

(c) The respective local agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend for state administrative costs not more than three per cent of the Title XX funds appropriated to the department.

Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

(4) The department of job and family services shall expend for the training of the following not more than two per cent of the Title XX funds appropriated to the department:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of job and family services shall prepare ~~a biennial~~ an annual comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each ~~state~~ federal fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and developmental disabilities shall prepare and submit to the department of job and family services the portions of each ~~biennial~~ annual plan and ~~annual~~ report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of ~~biennial~~ annual plans and ~~annual~~ reports.

(E) Each county department of job and family services shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department

shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services may adopt any rules it considers necessary to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with

Chapter 119. of the Revised Code.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes ~~an adult care~~ a residential facility licensed ~~pursuant to Chapter 5119.~~ under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel,

including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which

provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;

(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;

(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;

(e) Medical supplies and the use of medical appliances;

(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;

(g) Any of the foregoing items and services which:

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;

(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in

section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of ~~an adult care~~ a residential facility ~~as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, ~~clergyman~~ member of the clergy, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or

exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

Sec. 5101.97. (A)(1) Not later than the last day of each January, April, July, and ~~January~~ October, the department of job and family services shall complete a report on the characteristics of the individuals who participate in or receive services through

the programs operated by the department and the outcomes of the individuals' participation in or receipt of services through the programs. The reports shall be for the ~~six-month~~ three-month periods ending on the last days of March, June, September, and December and shall include information on the following:

(a) Work activities, developmental activities, and alternative work activities established under sections 5107.40 to 5107.69 of the Revised Code;

(b) Programs of publicly funded child care, as defined in section 5104.01 of the Revised Code;

(c) Child support enforcement programs;

(d) Births to recipients of the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code.

(2) The department shall submit the reports required under division (A)(1) of this section to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the legislative budget officer, the director of budget and management, and each board of county commissioners. The department shall provide copies of the reports to any person or government entity on request.

In designing the format for the reports, the department shall consult with individuals, organizations, and government entities interested in the programs operated by the department, so that the reports are designed to enable the general assembly and the public to evaluate the effectiveness of the programs and identify any needs that the programs are not meeting.

(B) Whenever the federal government requires that the department submit a report on a program that is operated by the department or is otherwise under the department's jurisdiction, the department shall prepare and submit the report in accordance with the federal requirements applicable to that report. To the

extent possible, the department may coordinate the preparation and submission of a particular report with any other report, plan, or other document required to be submitted to the federal government, as well as with any report required to be submitted to the general assembly. The reports required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be submitted as an annual summary.

Sec. 5104.012. (A)(1) At the times specified in this division, the administrator of a child day-care center or a type A family day-care home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center or type A home for employment as a person responsible for the care, custody, or control of a child.

The administrator shall request a criminal records check pursuant to this division at the time of the applicant's initial application for employment and every four years thereafter. When the administrator requests pursuant to this division a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to this division, the administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. On and after August 14, 2008, the administrator of a child day-care center or a type A family day-care home shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the

services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)~~(9)~~(6) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from employment.

(C)(1) Each child day-care center and type A family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the administrator or provider of the center or home.

(2) A child day-care center and type A family day-care home may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the center or home pays under division (C)(1) of this section. If a fee is charged under this division, the center or home shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center or type A home will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request

under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative; the center or type A home requesting the criminal records check or its representative; the department of job and family services or a county department of job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a center or home may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child; an in-home aide certified pursuant to section 5104.12 of the Revised Code; or any person who would serve in any position with a

child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers and type A family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

(a) Any owner, licensee, or administrator of a child day-care center;

(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home.

(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home.

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every four years thereafter. The director of a county department of job and family services shall request a criminal records check

pursuant to division (A)(2) of this section at the time of the initial application for certification and every four years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check. In all other cases in which the director of job and family services or the director of a county department of job and family services requests a criminal records check for an applicant pursuant to division (A)(1) or (2) of this section, the director may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(4) The director of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(1) and (3) of this section prior to approval of a license. The director of a county department of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(2) and (3) of this section prior to approval of certification.

(B) The director of job and family services or the director of a county department of job and family services shall provide to each person for whom a criminal records check is required under

this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section, obtain the completed form and impression sheet from that person, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(C) A person who receives pursuant to division (B) of this section a copy of the form and standard impression sheet described in that division and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director may consider the failure as a reason to deny licensure or certification.

(D) Except as provided in rules adopted under division (G) of this section, the director of job and family services shall not grant a license to a child day-care center or type A family day-care home and a county director of job and family services shall not certify a type B family day-care home if a person for whom a criminal records check was required in connection with the center or home previously has been convicted of or pleaded guilty to any of the violations described in division (A)~~(9)~~(6) of section 109.572 of the Revised Code.

(E) Each child day-care center, type A family day-care home, and type B family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that

section upon a request made pursuant to division (A) of this section.

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a county department of job and family services, the center, type A home, or type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the ~~department~~ director.

(H) As used in this section, "criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.051. (A)(1) The department of commerce is responsible for the inspections of child day-care centers as required by division (A)(1) of section 5104.05 of the Revised Code. Where there is a municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes day-care centers, all

inspections required under division (A)(1) of section 5104.05 of the Revised Code shall be made by that department according to the standards established by the board of building standards. Inspections in areas of the state where there is no municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes day-care centers shall be made by personnel of the department of commerce. Inspections of centers shall be contingent upon payment of a fee by the applicant to the department having jurisdiction to inspect.

(2) The department of commerce is responsible for the inspections of type A family day-care homes as required by division (B)(3) of section 5104.05 of the Revised Code. Where there is a municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes type A homes, all inspections required under division (B)(3) of section 5104.05 of the Revised Code shall be made by that department according to the standards established by the board of building standards. Inspections in areas of the state where there is no municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes type A homes shall be made by personnel of the department of commerce. Inspections of type A homes shall be contingent upon payment of a fee by the applicant to the department having jurisdiction to inspect.

(B) The state fire marshal is responsible for the inspections required by divisions (A)(2) and (B)(1) of section 5104.05 of the Revised Code. In municipal corporations and in townships outside municipal corporations where there is a fire prevention official,

the inspections shall be made by the fire chief or the fire prevention official under the supervision of and according to the standards established by the state fire marshal. In townships outside municipal corporations where there is no fire prevention official, inspections shall be made by the employees of the state fire marshal.

(C) The state fire marshal shall enforce all statutes and rules pertaining to fire safety and fire prevention in child day-care centers and type A family day-care homes. In the event of a dispute between the state fire marshal and any other responsible officer under sections 5104.05 and 5104.051 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the state fire marshal shall prevail.

(D) As used in this division, "licensor" has the same meaning as in section 3717.01 of the Revised Code.

The licensor for food service operations in the city or general health district in which the center is located is responsible for the inspections required under Chapter 3717. of the Revised Code.

(E) Any moneys collected by the department of commerce under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 5104.09. (A)(1) Except as provided in rules adopted pursuant to division (D) of this section, no individual who has been convicted of or pleaded guilty to a violation described in division (A)~~(9)~~(6) of section 109.572 of the Revised Code, a violation of section 2905.11, 2909.02, 2909.03, 2909.04, 2909.05, 2917.01, 2917.02, 2917.03, 2917.31, 2921.03, 2921.34, or 2921.35 of the Revised Code or a violation of an existing or former law or

ordinance of any municipal corporation, this state, any other state, or the United States that is substantially equivalent to any of those violations, or two violations of section 4511.19 of the Revised Code during operation of the center or home shall be certified as an in-home aide or be employed in any capacity in or own or operate a child day-care center, type A family day-care home, type B family day-care home, or certified type B family day-care home.

(2) Each employee of a child day-care center and type A home and every person eighteen years of age or older residing in a type A home shall sign a statement on forms prescribed by the director of job and family services attesting to the fact that the employee or resident person has not been convicted of or pleaded guilty to any offense set forth in division (A)(1) of this section and that no child has been removed from the employee's or resident person's home pursuant to section 2151.353 of the Revised Code. Each licensee of a type A home shall sign a statement on a form prescribed by the director attesting to the fact that no person who resides at the type A home and who is under the age of eighteen has been adjudicated a delinquent child for committing a violation of any section listed in division (A)(1) of this section. The statements shall be kept on file at the center or type A home.

(3) Each in-home aide and every person eighteen years of age or older residing in a certified type B home shall sign a statement on forms prescribed by the director of job and family services attesting that the aide or resident person has not been convicted of or pleaded guilty to any offense set forth in division (A)(1) of this section and that no child has been removed from the aide's or resident person's home pursuant to section 2151.353 of the Revised Code. Each authorized provider shall sign a statement on forms prescribed by the director attesting that the

provider has not been convicted of or pleaded guilty to any offense set forth in division (A)(1) of this section and that no child has been removed from the provider's home pursuant to section 2151.353 of the Revised Code. Each authorized provider shall sign a statement on a form prescribed by the director attesting to the fact that no person who resides at the certified type B home and who is under the age of eighteen has been adjudicated a delinquent child for committing a violation of any section listed in division (A)(1) of this section. The statements shall be kept on file at the county department of job and family services.

(4) Each administrator and licensee of a center or type A home shall sign a statement on a form prescribed by the director of job and family services attesting that the administrator or licensee has not been convicted of or pleaded guilty to any offense set forth in division (A)(1) of this section and that no child has been removed from the administrator's or licensee's home pursuant to section 2151.353 of the Revised Code. The statement shall be kept on file at the center or type A home.

(B) No in-home aide, no administrator, licensee, authorized provider, or employee of a center, type A home, or certified type B home, and no person eighteen years of age or older residing in a type A home or certified type B home shall withhold information from, or falsify information on, any statement required pursuant to division (A)(2), (3), or (4) of this section.

(C) No administrator, licensee, or child-care staff member shall discriminate in the enrollment of children in a child day-care center upon the basis of race, color, religion, sex, or national origin.

(D) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition

in division (A) of this section for persons who have been convicted of an offense listed in that division but meet rehabilitation standards set by the ~~department~~ director.

Sec. 5104.37. (A) As used in this section, "eligible provider" means an individual or entity eligible to provide publicly funded child care pursuant to section 5104.31 of the Revised Code.

(B) The department of job and family services may withhold any money due~~,~~ under this chapter and recover through any appropriate method any money erroneously paid~~,~~ under this chapter if evidence exists of less than full compliance with this chapter and any rules adopted under it.

(C) Notwithstanding any other provision of this chapter to the contrary, the department shall take action against an eligible provider as described in this section.

(D) The department may suspend a contract entered into with an eligible provider under section 5104.32 of the Revised Code when the department initiates an investigation concerning the eligible provider for either of the following reasons:

(1) The department has evidence that the eligible provider received an improper child care payment as a result of the provider's intentional act.

(2) The department receives notice and a copy of an indictment, information, or complaint charging the eligible provider or the owner or operator of the provider with committing any of the following:

(a) An act that is a felony or misdemeanor relating to providing or billing for publicly funded child care or providing management or administrative services relating to providing publicly funded child care;

(b) An act that would constitute an offense described in section 5104.09 of the Revised Code.

(E)(1) Except as provided in division (E)(2) of this section, the suspension of a contract under division (D) of this section shall continue until the department completes its investigation or all criminal charges are disposed of through dismissal, a finding of not guilty, conviction, or a plea of guilty.

(2) If the department initiates the termination of a contract that has been suspended pursuant to division (D) of this section, the suspension shall continue until the termination process is completed.

(F) An eligible provider shall not provide publicly funded child care while the provider's contract is under suspension pursuant to division (D) of this section. As of the date the eligible provider's contract is suspended, the department shall withhold payment to the eligible provider for publicly funded child care.

(G) Not later than five days after suspending an eligible provider's contract pursuant to division (D) of this section, the department shall notify the eligible provider. The notice shall include all of the following:

(1) A description of the investigation or indictment, information, or complaint, which need not disclose specific information concerning any ongoing administrative or criminal investigation;

(2) A statement that the eligible provider is prohibited from providing publicly funded child care while the contract is under suspension;

(3) A statement that the suspension will continue until the department completes its investigation or all criminal charges are disposed of through dismissal, a finding of not guilty,

conviction, or a plea of guilty, and that if the department initiates the termination of the contract, the suspension will continue until the termination process is completed.

(H) An eligible provider may file an appeal with the department regarding any action the department takes pursuant to division (D) of this section. The appeal must be received by the department not later than fifteen days after the date the provider receives the notification described in division (G) of this section. The department shall review the evidence and issue a decision not later than thirty days after receiving the appeal. The department shall not suspend a contract pursuant to division (D) of this section until the time for filing the appeal has passed or, if the provider files a timely appeal, the department has issued a decision on the appeal.

Sec. 5107.05. The director of job and family services shall adopt rules to implement this chapter. The rules shall be consistent with Title IV-A, Title IV-D, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the plan, and waivers granted by the United States secretary. Rules governing eligibility, program participation, and other applicant and participant requirements shall be adopted in accordance with Chapter 119. of the Revised Code. Rules governing financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code.

(A) The rules shall specify, establish, or govern all of the following:

(1) A payment standard for Ohio works first based on federal and state appropriations that is increased in accordance with

section 5107.04 of the Revised Code;

(2) For the purpose of section 5107.04 of the Revised Code, the method of determining the amount of cash assistance an assistance group receives under Ohio works first;

(3) Requirements for initial and continued eligibility for Ohio works first, including requirements regarding income, citizenship, age, residence, and assistance group composition;

(4) For the purpose of section 5107.12 of the Revised Code, application and verification procedures, including the minimum information an application must contain;

(5) The extent to which a participant of Ohio works first must notify, pursuant to section 5107.12 of the Revised Code, a county department of job and family services of additional income not previously reported to the county department;

(6) For the purpose of section 5107.16 of the Revised Code, ~~all~~ both of the following:

(a) Standards for the determination of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract;

(b) The compliance ~~form~~ activities a member of an assistance group ~~may complete to indicate willingness to come into full compliance~~ must complete for the member to be considered to have ceased to fail or refuse to comply in full with a provision of a self-sufficiency contract~~;~~

~~(c) The manner by which the compliance form is to be completed and provided to a county department of job and family services~~.

(7) The department of job and family services providing written notice of a sanction under section 5107.161 of the Revised Code;

(8) For the purpose of division ~~(A)(2)~~(B) of section 5107.17 of the Revised Code, the ~~period of time by which a county department of job and family services is to receive a compliance form established in rules adopted under division (A)(6)(b) of this section~~ circumstances under which the adult member of an assistance group or an assistance group's minor head of household whose failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract causes a sanction under section 5107.16 of the Revised Code must enter into a new, or amend an existing, self-sufficiency contract before the assistance group may resume participation in Ohio works first following the sanction;

(9) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code;

(10) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate;

(11) The requirements governing the LEAP program, including the definitions of "equivalent of a high school diploma" and "good cause," and the incentives provided under the LEAP program;

(12) If the director implements section 5107.301 of the Revised Code, the requirements governing the award provided under that section, including the form that the award is to take and requirements an individual must satisfy to receive the award;

(13) Circumstances under which a county department of job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code.

(14) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code;

(15) The implementation of sections 5107.71 to 5107.717 of the Revised Code by county departments of job and family services;

(16) A domestic violence screening process to be used for the purpose of division (A) of section 5107.71 of the Revised Code;

(17) The minimum frequency with which county departments of job and family services must redetermine a member of an assistance group's need for a waiver issued under section 5107.714 of the Revised Code.

(B) The rules adopted under division (A)(3) of this section regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code.

The rules adopted under division (A)(10) of this section shall be consistent with 42 U.S.C. 654(29).

The rules adopted under division (A)(13) of this section shall specify that the circumstances include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation.

(C) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment ~~that is below an amount the department specifies~~ under circumstances the rules specify.

Sec. 5107.16. (A) If a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract entered into under section 5107.14 of

the Revised Code, a county department of job and family services shall sanction the assistance group as follows:

(1) For a first failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for one payment month or until the failure or refusal ceases, whichever is longer;

(2) For a second failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for three payment months or until the failure or refusal ceases, whichever is longer;

(3) For a third or subsequent failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for six payment months or until the failure or refusal ceases, whichever is longer.

(B) The director of job and family services shall establish standards for the determination of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract in rules adopted under section 5107.05 of the Revised Code.

(C) ~~The director of job and family services shall provide a compliance form established in rules adopted under section 5107.05 of the Revised Code to an~~ An assistance group member who fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract~~. The member's failure or refusal to comply in full with the provision shall be deemed to have ceased on the date a county department of job and family services receives the compliance form from the member if the compliance form is completed and provided to the county department in the manner~~ must complete all compliance activities specified in rules adopted under section 5107.05 of the Revised Code in order for the

failure or refusal to be considered to have ceased.

(D) After sanctioning an assistance group under division (A) of this section, a county department of job and family services shall continue to work with the assistance group.

(E) An adult eligible for medicaid pursuant to division ~~(A)~~(C)(1)(a) of section 5111.01 of the Revised Code who is sanctioned under division (A)(3) of this section for a failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract related to work responsibilities under sections 5107.40 to 5107.69 of the Revised Code loses eligibility for medicaid unless the adult is otherwise eligible for medicaid pursuant to another division of section 5111.01 of the Revised Code.

An assistance group that would be participating in Ohio works first if not for a sanction under this section shall continue to be eligible for all of the following:

(1) Publicly funded child care in accordance with division (A)(3) of section 5104.30 of the Revised Code;

(2) Support services in accordance with section 5107.66 of the Revised Code;

(3) To the extent permitted by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, to participate in work activities, developmental activities, and alternative work activities in accordance with sections 5107.40 to 5107.69 of the Revised Code.

Sec. 5107.17. ~~An~~ Both of the following must occur before an assistance group ~~that resumes~~ may resume participation in Ohio works first following a sanction under section 5107.16 of the Revised Code ~~is not required to do either of the following~~:

(A) ~~Reapply~~ The assistance group must reapply under section

5107.12 of the Revised Code~~, unless either~~ if any of the following ~~applies~~ apply:

(1) It is the assistance group's regularly scheduled time for an eligibility redetermination;

(2) ~~The county department of job and family services does not receive the completed compliance form established in rules adopted under section 5107.05 of the Revised Code within the period of time specified in rules adopted under that section~~ If the sanction was imposed under division (A)(1) of section 5107.16 of the Revised Code, the failure or refusal on which the sanction was based is not considered to have ceased until after one payment month immediately following the date the sanction began;

(3) If the sanction was imposed under division (A)(2) of section 5107.16 of the Revised Code, the failure or refusal on which the sanction was based is not considered to have ceased until after three payment months immediately following the date the sanction began;

(4) If the sanction was imposed under division (A)(3) of section 5107.16 of the Revised Code, the failure or refusal on which the sanction was based is not considered to have ceased until after six payment months immediately following the date the sanction began.

(B) ~~Enter~~ The adult member of the assistance group or the assistance group's minor head of household whose failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract caused the sanction must enter into a new, or amend an existing, self-sufficiency contract under section 5107.14 of the Revised Code, ~~unless the county department of job and family services determines it is time for a new appraisal under section 5107.41 of the Revised Code or the assistance group's circumstances have changed in a manner necessitating an~~

~~amendment to the self-sufficiency contract as determined using procedures included in the contract under division (B)(9) of~~ if required to do so by rules adopted under section ~~5107.14~~ 5107.05 of the Revised Code.

Sec. 5111.01. (A) As used in this chapter~~, "medical~~:

"Children's health insurance program" means the children's health insurance program part I, children's health insurance program part II, and children's health insurance program part III authorized by sections 5101.50 to 5101.529 of the Revised Code.

"Medical assistance program" or "medicaid" means the program that is authorized by this chapter and provided by the ~~department~~ office of ~~job and family services~~ medical assistance under this chapter, Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.~~A.~~ 1396, et seq., as amended, and the waivers of Title XIX requirements granted to the ~~department~~ office by the centers for medicare and medicaid services of the United States department of health and human services.

~~The department of job and family services~~ (B) There is hereby established the office of medical assistance as a work unit within the department of job and family services. The chief of the office shall hold the title of medical assistance director. Notwithstanding section 5101.06 of the Revised Code, the governor shall appoint the medical assistance director and the medical assistance director shall serve at the governor's pleasure. The medical assistance director is not an assistant director of the department of job and family services for purposes of section 121.05 or 5101.03 of the Revised Code or any other purpose.

Subject to appropriations for the medicaid program and children's health insurance program, the department of job and family services shall provide staff and support services as necessary for the operation of the office of medical assistance.

If a statute, rule, contract, or other legal authority requires the director of job and family services or department of job and family services to take an action regarding the medicaid program or children's health insurance program, the medical assistance director or office of medical assistance shall take the action in place of the director of job and family services or department of job and family services. If a statute, rule, contract, or other legal authority permits the director of job and family services or department of job and family services to take an action regarding the medicaid program or children's health insurance program, the medical assistance director or office of medical assistance shall take the action in place of the director of job and family services or department of job and family services if the action is to be taken.

The office of medical assistance shall act as the single state agency to supervise the administration of the medicaid program. As the single state agency, the ~~department~~ office shall comply with 42 C.F.R. 431.10(e). The ~~department's~~ office's rules governing medicaid are binding on other agencies that administer components of the medicaid program. No agency may establish, by rule or otherwise, a policy governing medicaid that is inconsistent with a medicaid policy established, in rule or otherwise, by the medical assistance director ~~of job and family services~~.

~~(A)~~(C) The ~~department~~ office of ~~job and family services~~ medical assistance may provide medical assistance under the medicaid program as long as federal funds are provided for such assistance, to the following:

(1) Families with children that meet either of the following conditions:

(a) The family meets the income, resource, and family composition requirements in effect on July 16, 1996, for the

former aid to dependent children program as those requirements were established by Chapter 5107. of the Revised Code, federal waivers granted pursuant to requests made under former section 5101.09 of the Revised Code, and rules adopted by the department or any changes the department makes to those requirements in accordance with paragraph (a)(2) of section 114 of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of implementing section 5111.0120 of the Revised Code. An adult loses eligibility for medicaid under division ~~(A)~~(C)(1)(a) of this section pursuant to division (E) of section 5107.16 of the Revised Code.

(b) The family does not meet the requirements specified in division ~~(A)~~(C)(1)(a) of this section but is eligible for medicaid pursuant to section 5101.18 of the Revised Code.

(2) Aged, blind, and disabled persons who meet the following conditions:

(a) Receive federal aid under Title XVI of the "Social Security Act," or are eligible for but are not receiving such aid, provided that the income from all other sources for individuals with independent living arrangements shall not exceed one hundred seventy-five dollars per month. The income standards hereby established shall be adjusted annually at the rate that is used by the United States department of health and human services to adjust the amounts payable under Title XVI.

(b) Do not receive aid under Title XVI, but meet any of the following criteria:

(i) Would be eligible to receive such aid, except that their income, other than that excluded from consideration as income under Title XVI, exceeds the maximum under division ~~(A)~~(C)(2)(a) of this section, and incurred expenses for medical care, as

determined under federal regulations applicable to section 209(b) of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 U.S.C.~~A.~~ 1396a(f), as amended, equal or exceed the amount by which their income exceeds the maximum under division ~~(A)~~(C)(2)(a) of this section;

(ii) Received aid for the aged, aid to the blind, or aid for the permanently and totally disabled prior to January 1, 1974, and continue to meet all the same eligibility requirements;

(iii) Are eligible for medicaid pursuant to section 5101.18 of the Revised Code.

(3) Persons to whom federal law requires, as a condition of state participation in the medicaid program, that medicaid be provided;

(4) Persons under age twenty-one who meet the income requirements for the Ohio works first program established under Chapter 5107. of the Revised Code but do not meet other eligibility requirements for the program. The medical assistance director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying which Ohio works first requirements shall be waived for the purpose of providing medicaid eligibility under division ~~(A)~~(C)(4) of this section.

~~(B)~~(D) If sufficient funds are appropriated for the medicaid program, the ~~department~~ office of medical assistance may provide medical assistance under the medicaid program to persons in groups designated by federal law as groups to which a state, at its option, may provide medical assistance under the medicaid program.

~~(C)~~(E) The ~~department~~ office of medical assistance may expand eligibility for the medicaid program to include individuals under age nineteen with family incomes at or below one hundred fifty per cent of the federal poverty guidelines, except that the eligibility expansion shall not occur unless the ~~department~~ office

receives the approval of the federal government. The ~~department~~ office may implement the eligibility expansion authorized under this division on any date selected by the ~~department~~ office, but not sooner than January 1, 1998.

~~(D)~~(F) In addition to any other authority or requirement to adopt rules under this chapter, the medical assistance director may adopt rules in accordance with section 111.15 of the Revised Code as the director considers necessary to establish standards, procedures, and other requirements regarding the provision of medical assistance under the medicaid program. The rules may establish requirements to be followed in applying for medicaid, making determinations of eligibility for medicaid, and verifying eligibility for medicaid. The rules may include special conditions as the ~~department~~ office determines appropriate for making applications, determining eligibility, and verifying eligibility for any medical assistance that the ~~department~~ office may provide under the medicaid program pursuant to division ~~(C)~~(E) of this section and section 5111.014 or 5111.0120 of the Revised Code.

Sec. 5111.013. (A) The provision of medical assistance to pregnant women and young children who are eligible for medical assistance under division ~~(A)~~(C)(3) of section 5111.01 of the Revised Code, but who are not otherwise eligible for medical assistance under that section, shall be known as the healthy start program.

(B) The department of job and family services shall do all of the following with regard to the application procedures for the healthy start program:

(1) Establish a short application form for the program that requires the applicant to provide no more information than is necessary for making determinations of eligibility for the healthy start program, except that the form may require applicants to

provide their social security numbers. The form shall include a statement, which must be signed by the applicant, indicating that she does not choose at the time of making application for the program to apply for assistance provided under any other program administered by the department and that she understands that she is permitted at any other time to apply at the county department of job and family services of the county in which she resides for any other assistance administered by the department.

(2) To the extent permitted by federal law, do one or both of the following:

(a) Distribute the application form for the program to each public or private entity that serves as a women, infants, and children clinic or as a child and family health clinic and to each administrative body for such clinics and train employees of each such agency or entity to provide applicants assistance in completing the form;

(b) In cooperation with the department of health, develop arrangements under which employees of county departments of job and family services are stationed at public or private agencies or entities selected by the department of job and family services that serve as women, infants, and children clinics; child and family health clinics; or administrative bodies for such clinics for the purpose both of assisting applicants for the program in completing the application form and of making determinations at that location of eligibility for the program.

(3) Establish performance standards by which a county department of job and family services' level of enrollment of persons potentially eligible for the program can be measured, and establish acceptable levels of enrollment for each county department.

(4) Direct any county department of job and family services

whose rate of enrollment of potentially eligible enrollees in the program is below acceptable levels established under division (B)(3) of this section to implement corrective action. Corrective action may include but is not limited to any one or more of the following to the extent permitted by federal law:

(a) Establishing formal referral and outreach methods with local health departments and local entities receiving funding through the bureau of maternal and child health;

(b) Designating a specialized intake unit within the county department for healthy start applicants;

(c) Establishing abbreviated timeliness requirements to shorten the time between receipt of an application and the scheduling of an initial application interview;

(d) Establishing a system for telephone scheduling of intake interviews for applicants;

(e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department.

(C) To the extent permitted by federal law, local funds, whether from public or private sources, expended by a county department for administration of the healthy start program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code.

(D) A county department of job and family services that

maintains offices at more than one location shall accept applications for the healthy start program at all of those locations.

(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section.

Sec. 5111.014. (A) The director of job and family services shall submit to the United States secretary of health and human services an amendment to the state medicaid plan to make an individual who meets all of the following requirements eligible for medicaid:

(1) The individual is pregnant;

(2) The individual's family income does not exceed two hundred per cent of the federal poverty guidelines;

(3) The individual satisfies all relevant requirements established by rules adopted under division ~~(D)~~(F) of section 5111.01 of the Revised Code.

(B) If approved by the United States secretary of health and human services, the director of job and family services shall implement the medicaid plan amendment submitted under division (A) of this section as soon as possible after receipt of notice of the approval, but not sooner than January 1, 2008.

Sec. 5111.0115. (A) The department of job and family services may provide medical assistance under the medicaid program, as long as federal funds are provided for such assistance, to each former participant of the Ohio works first program established under Chapter 5107. of the Revised Code who meets all of the following requirements:

(1) Is ineligible to participate in Ohio works first solely

as a result of increased income due to employment;

(2) Is not covered by, and does not have access to, medical insurance coverage through the employer with benefits comparable to those provided under this section, as determined in accordance with rules adopted by the director of job and family services under division (B) of this section;

(3) Meets any other requirement established by rule adopted under division (B) of this section.

(B) The director of job and family services shall adopt such rules under Chapter 119. of the Revised Code as are necessary to implement and administer the medical assistance program under this section.

(C) A person seeking to participate in a program of medical assistance under this section shall apply to the county department of job and family services in the county in which the applicant resides. The application shall be made on a form prescribed by the department of job and family services and furnished by the county department.

(D) If the county department of job and family services determines that a person is eligible to receive medical assistance under this section, the department shall provide assistance, to the same extent and in the same manner as medical assistance is provided to a person eligible for medical assistance pursuant to division ~~(A)~~(C)(1)(a) of section 5111.01 of the Revised Code, for no longer than twelve months, beginning the month after the date the participant's eligibility for Ohio works first is terminated.

Sec. 5111.0120. The director of job and family services shall submit to the United States secretary of health and human services an amendment to the state medicaid plan to make an individual eligible for medicaid who meets all of the following requirements:

(A) The individual is the parent of a child under nineteen years of age and resides with the child;

(B) The individual's family income does not exceed ninety per cent of the federal poverty guidelines;

(C) The individual is not otherwise eligible for medicaid;

(D) The individual satisfies all relevant requirements established by rules adopted under division ~~(D)~~(F) of section 5111.01 of the Revised Code.

Sec. 5111.031. (A) As used in this section:

(1) "Independent provider" has the same meaning as in section 5111.034 of the Revised Code.

(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

(3) "Noninstitutional medicaid provider" means any person or entity with a medicaid provider agreement other than a hospital, nursing facility, or intermediate care facility for the mentally retarded.

(4) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B) Notwithstanding any provision of this chapter to the contrary, the department of job and family services shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee.

(C) Except as provided in division (D) of this section and in rules adopted by the department under division (H) of this section, on receiving notice and a copy of an indictment that is

issued on or after September 29, 2007, and charges a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee with committing an offense specified in division (E) of this section, the department shall suspend the provider agreement held by the noninstitutional medicaid provider. Subject to division (D) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered.

The suspension shall continue in effect until the proceedings in the criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty. If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded.

Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under this division by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

When subject to a suspension under this division, a provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor.

(D)(1) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (C) of this

section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(2) The termination of medicaid reimbursement applies only to payments for medicaid services rendered subsequent to the date on which the notice required under division (F) of this section is sent. Claims for reimbursement for medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E)(1) In the case of a noninstitutional medicaid provider that is not an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would be a felony or misdemeanor under the laws of this state and the act relates to or results from either of the following:

(a) Furnishing or billing for medical care, services, or supplies under the medicaid program;

(b) Participating in the performance of management or administrative services relating to furnishing medical care, services, or supplies under the medicaid program.

(2) In the case of a noninstitutional medicaid provider that is an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would constitute ~~one of the offenses specified in division (D) of~~ a disqualifying offense as defined in section ~~5111.034~~ 5111.032 of the Revised

Code.

(F) Not later than five days after suspending a provider agreement under division (C) of this section, the department shall send notice of the suspension to the affected provider or owner. In providing the notice, the department shall do all of the following:

(1) Describe the indictment that was the cause of the suspension, without necessarily disclosing specific information concerning any ongoing civil or criminal investigation;

(2) State that the suspension will continue in effect until the proceedings in the criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded;

(3) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for a reconsideration pursuant to division (G) of this section.

(G)(1) Pursuant to the procedure specified in division (G)(2) of this section, a noninstitutional medicaid provider or owner subject to a suspension under this section may request a reconsideration. The request shall be made not later than thirty days after receipt of the notice provided under division (F) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider

agreement was based on a mistake of fact, other than the validity of the indictment;

(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(3) The department shall review the information and documents submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. 5111.032. (A) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) ~~"Department" includes a designee of the department of job and family services.~~

~~(3)~~ "Disqualifying offense" means any of the following:

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04,

2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in division (A)(2)(a) to (c) of this section;

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

(3) "Owner" means a person who has an ownership interest in a provider or applicant to be a provider in an amount designated ~~by the department of job and family services~~ in rules adopted under this section.

(4) "Person subject to the criminal records check

requirement" means the following:

(a) A provider or applicant to be a provider who is notified under division (E)(1) of this section that the provider or applicant is subject to a criminal records check;

(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of a provider or applicant to be a provider if, pursuant to division (E)(1)(a) of this section, the owner or prospective owner, officer or prospective officer, or board member or prospective board member is specified in information given to the provider or applicant under division (E)(1) of this section;

(c) An employee or prospective employee of a provider or applicant to be a provider if both of the following apply:

(i) The employee or prospective employee is specified, pursuant to division (E)(1)(b) of this section, in information given to the provider or applicant under division (E)(1) of this section.

(ii) The provider or applicant is not prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee.

(5) "Provider" means a person, institution, or entity that has a medicaid provider agreement with the department of job and family services ~~pursuant to Title XIX of the "Social Security Act," 49 State. 620 (1965), 42 U.S.C. 1396, as amended~~.

(6) "Responsible entity" means the following:

(a) With respect to a criminal records check required under this section for a provider or applicant to be a provider, the department of job and family services or the department's designee;

(b) With respect to a criminal records check required under

this section for an owner or prospective owner, officer or prospective officer, board member or prospective board member, or employee or prospective employee of a provider or applicant to be a provider, the provider or applicant.

(B)~~(1) Except as provided in division (B)(2) of this section, the~~ This section does not apply to any individual who is subject to a criminal records check under section 3712.09, 3721.121, 5111.034, 5123.081, or 5123.169 of the Revised Code or any individual who is subject to a database review or criminal records check under section 173.394, 3701.881, or 5111.033 of the Revised Code.

(C) The department of job and family services may ~~require~~ do any of the following:

(1) Require that any provider~~,~~ or applicant to be a provider~~, employee or prospective employee of a provider, owner or prospective owner of a provider, officer or prospective officer of a provider, or board member or prospective board member of a provider~~ submit to a criminal records check as a condition of ~~obtaining~~ having a medicaid provider agreement~~, continuing to hold a provider agreement, being employed by a provider, having an ownership interest in a provider, or being an officer or board member of a provider. The department may designate the categories of persons who are subject to the criminal records check requirement. The department shall designate the times at which the criminal records checks must be conducted.~~

~~(2) The section does not apply to providers, applicants to be providers, employees of a provider, or prospective employees of a provider who are subject to criminal records checks under section 5111.033 or 5111.034 of the Revised Code;~~

(2) Require that any provider or applicant to be a provider require an owner or prospective owner, officer or prospective

officer, or board member or prospective board member of the provider or applicant submit to a criminal records check as a condition of being an owner, officer, or board member of the provider or applicant;

(3) Require that any provider or applicant to be a provider do the following:

(a) If so required by rules adopted under this section, determine pursuant to a database review conducted under division (F)(1)(a) of this section whether any employee or prospective employee of the provider or applicant is included in a database;

(b) Unless the provider or applicant is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the employee or prospective employee to submit to a criminal records check as a condition of being an employee of the provider or applicant.

(D)(1) The department or the department's designee shall terminate a provider's medicaid provider agreement or deny an applicant's application for a medicaid provider agreement if the provider or applicant is a person subject to the criminal records check requirement and either of the following applies:

(a) The provider or applicant fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules adopted under this section, the provider or applicant is found by the criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the applicant or provider was found eligible for intervention in lieu of conviction.

(2) No provider or applicant to be a provider shall permit a person to be an owner, officer, or board member of the provider or applicant if the person is a person subject to the criminal records check requirement and either of the following applies:

(a) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules adopted under this section, the person is found by the criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction.

(3) No provider or applicant to be a provider shall employ a person if any of the following apply:

(a) The person has been excluded from providing services or items under the medicaid program, the medicare program operated pursuant to Title XVIII of the "Social Security Act," or any other federal health care program.

(b) If the person is subject to a database review conducted under division (F)(1)(a) of this section, the person is found by the database review to be included in a database and the rules adopted under this section regarding the database review prohibit the provider or applicant from employing a person included in the database.

(c) If the person is a person subject to the criminal records check requirement, either of the following applies:

(i) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(ii) Except as provided in rules adopted under this section, the person is found by the criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction.

~~(C)~~(E)(1) The department or the department's designee shall inform each provider or applicant to be a provider whether the provider or applicant is subject to a criminal records check ~~requirement under division (B) of this section~~. For providers, the information shall be given at times designated in rules adopted under this section. For applicants to be providers, the information shall be given at the time of initial application. When the information is given, the department or the department's designee shall specify ~~which~~ the following:

(a) Which of the provider's or applicant's ~~employees or prospective employees,~~ owners or prospective owners, officers or prospective officers, or board members or prospective board members are subject to ~~the~~ a criminal records check ~~requirement;~~

(b) Which of the provider's or applicant's employees or prospective employees are subject to division (C)(3) of this section.

(2) At times designated in rules adopted under this section, a provider or applicant to be a provider that is a person subject to the criminal records check requirement shall ~~inform~~ do the following:

(a) Inform each person specified ~~by the department~~ under division ~~(C)(1)~~(E)(1)(a) of this section that the person is required~~, as applicable,~~ to submit to a criminal records check ~~for final consideration for employment in a full-time, part-time, or~~

~~temporary position; as a condition of continued employment; or~~ as a condition of ~~becoming or continuing to be~~ being an owner, officer, or board member ~~or owner~~ of ~~a~~ the provider or applicant;

(b) Inform each person specified under division (E)(1)(b) of this section that the person is subject to division (C)(3) of this section.

~~(D)~~(F)(1) If a provider or applicant to be a provider is a person subject to ~~a~~ the criminal records check ~~under this section~~ requirement, the department or the department's designee shall require the conduct of a criminal records check by the superintendent of the bureau of criminal identification and ~~investigation. If a provider or applicant to be a provider for whom a criminal records check is required does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the individual from the federal bureau of investigation in a criminal records check, the department shall require the provider or applicant to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the provider or applicant. Even if a provider or applicant for whom a criminal records check request is required presents proof of having been a resident of this state for the five-year period, the department may require that the provider or applicant request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the provider or applicant.~~

~~(2)~~ investigation. A provider or applicant to be a provider shall require the conduct of a criminal records check by the superintendent with respect to each of the persons specified ~~by the department~~ under division ~~(C)(1)~~(E)(1)(a) of this section. ~~If~~

~~the person for whom a criminal records check is required does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the individual from the federal bureau of investigation in a criminal records check, the individual shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the individual. Even if an individual for whom a criminal records check request is required presents proof of having been a resident of this state for the five-year period, the department may require the provider to request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person.~~ With respect to each employee and prospective employee specified under division (E)(1)(b) of this section, a provider or applicant to be a provider shall do the following:

(a) If rules adopted under this section require the provider or applicant to conduct a database review to determine whether the employee or prospective employee is included in a database, conduct the database review in accordance with the rules;

(b) Unless the provider or applicant is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the conduct of a criminal records check of the employee or prospective employee by the superintendent.

(2) If a person subject to the criminal records check requirement does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that

within that five-year period the superintendent has requested information about the person from the federal bureau of investigation in a criminal records check, the responsible entity shall require the person to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the person. Even if the person presents proof of having been a resident of this state for the five-year period, the responsible entity may require that the person request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person.

~~(E)(1)~~(G) Criminal records checks required ~~under~~ by this section ~~for providers or applicants to be providers~~ shall be obtained as follows:

~~(a)~~(1) The ~~department~~ responsible entity shall provide each ~~provider or applicant~~ person subject to the criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard ~~fingerprint~~ impression sheet prescribed pursuant to division (C)(2) of that section.

~~(b)~~(2) The ~~provider or applicant~~ person subject to the criminal records check requirement shall submit the required form and one complete set of the person's fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The ~~applicant or provider~~ person shall pay all fees associated with obtaining the criminal records check.

~~(c)~~(3) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The ~~provider or applicant~~ person subject to the criminal records check requirement shall instruct the superintendent to submit the report

of the criminal records check directly to the ~~director of job and family services.~~

~~(2) Criminal records checks required under this section for persons specified by the department under division (C)(1) of this section shall be obtained as follows:~~

~~(a) The provider shall give to each person subject to criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.~~

~~(b) The person shall submit the required form and one complete set of fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.~~

~~(c) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check shall instruct the superintendent to submit the report of the criminal records check directly to the provider~~ responsible entity. ~~The~~ If the department or the department's designee is not the responsible entity, the department or designee may require the ~~provider~~ responsible entity to submit the report to the department or designee.

~~(F) If a provider or applicant to be a provider is given the information specified in division (E)(1)(a) of this section but fails to obtain a criminal records check, the department shall, as applicable, terminate the provider agreement or deny the application to be a provider.~~

~~If a person is given the information specified in division~~

~~(E)(2)(a) of this section but fails to obtain a criminal records check, the provider shall not, as applicable, permit the person to be an employee, owner, officer, or board member of the provider.~~

~~(G) Except as provided in rules adopted under division (J) of this section, the department shall terminate the provider agreement of a provider or the department shall not issue a provider agreement to an applicant if the provider or applicant is subject to a criminal records check under this section and the provider or applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the applicant or provider was found eligible for intervention in lieu of conviction:~~

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

~~existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;~~

~~(2) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (G)(1) of this section.~~

~~(H)(1)(a) Except as provided in rules adopted under division (J) of this section and subject to division (H)(2) of this section, no provider shall permit a person to be an employee, owner, officer, or board member of the provider if the person is subject to a criminal records check under this section and the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section.~~

~~(b) No provider shall employ a person who has been excluded from participating in the medicaid program, the medicare program operated pursuant to Title XVIII of the "Social Security Act," or any other federal health care program.~~

~~(2)(a)~~(H)(1) A provider or applicant to be a provider may employ conditionally a person for whom a criminal records check is required ~~under~~ by this section prior to obtaining the results of ~~a~~ the criminal records check ~~regarding the person, but only~~ if ~~the~~ both of the following apply:

(a) The provider or applicant is not prohibited by division (D)(3)(b) of this section from employing the person.

(b) The person submits a request for ~~a~~ the criminal records check not later than five business days after the ~~individual~~ person begins conditional employment.

~~(b)~~(2) A provider or applicant to be a provider that employs

a person conditionally under ~~authority of~~ division (H)~~(2)(a)~~(1) of this section shall terminate the person's employment if the results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the ~~individual~~ person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for ~~any of the offenses specified in division (G)(1) or (2) of this section~~ a disqualifying offense, the provider or applicant shall terminate the person's employment unless circumstances specified in rules adopted under this section exist that permit the provider or applicant to employ the person and the provider or applicant chooses to employ the ~~individual pursuant to division (J) of this section~~ person.

(I) The report of a criminal records check conducted pursuant to this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The director of job and family services and the staff of the department in the administration of the medicaid program;

(3) The department's designee;

(4) The provider or applicant to be a provider who required the person who is the subject of the criminal records check to submit to the criminal records check;

(5) A court, hearing officer, or other necessary individual involved in a case dealing with ~~the~~ any of the following:

(a) The denial or termination of a medicaid provider agreement;

~~(4) A court, hearing officer, or other necessary individual involved in a case dealing with a~~ (b) A person's denial of employment, termination of employment, or employment or unemployment benefits~~;~~

(c) A civil or criminal action regarding the medicaid program.

(J) The ~~department~~ director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. If the director adopts such rules, the rules shall designate the times at which a criminal records check must be conducted under this section. The rules may ~~specify~~ do any of the following:

(1) Designate the categories of persons who are subject to a criminal records check under this section;

(2) Specify circumstances under which the department or the department's designee may continue a medicaid provider agreement or issue a medicaid provider agreement to an applicant when the provider or applicant ~~has~~ is found by a criminal records check to have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been found eligible for intervention in lieu of conviction for ~~any of the offenses specified in division (G)(1) or (2) of this section. The rules may also specify~~ a disqualifying offense;

(3) Specify circumstances under which a provider or applicant to be a provider may permit a person to be an employee, owner, officer, or board member of the provider or applicant, when the person ~~has~~ is found by a criminal records check conducted pursuant to this section to have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been found eligible for intervention in lieu of conviction for ~~any of the offenses specified in division (G)(1) or (2) of this section~~ a disqualifying offense;

(4) Specify all of the following:

(a) The circumstances under which a database review must be conducted under division (F)(1)(a) of this section to determine whether an employee or prospective employee of a provider or applicant to be a provider is included in a database;

(b) The procedures for conducting the database review;

(c) The databases that are to be checked;

(d) The circumstances under which a provider or applicant to be a provider is prohibited from employing a person who is found by the database review to be included in a database.

Sec. 5111.033. (A) As used in this section:

~~(1)~~ "Applicant" means a person who is under final consideration for employment ~~or, after September 26, 2003, an existing employee~~ with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based ~~waiver~~ services ~~to a person with disabilities~~. ~~"Applicant" also means an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities after September 26, 2003~~.

~~(2)~~ "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

~~(3) "Waiver agency" means a person or government entity that is not certified under the medicare program and is accredited by the community health accreditation program or the joint commission on accreditation of health care organizations or a company that provides home and community-based waiver services to persons with disabilities through department of job and family services administered home and community-based waiver programs.~~

~~(4) "Home~~ "Disqualifying offense" has the same meaning as in section 5111.032 of the Revised Code.

"Employee" means a person employed by a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Home and community-based ~~waiver~~ services medicaid waiver component" ~~means services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital~~ has the same meaning as in section 5111.85 of the Revised Code. ~~Home and community-based waiver services are approved by the centers for medicare and medicaid for specific populations and are not otherwise available under the medicaid state plan.~~

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of job and family services, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section 5111.034 of the Revised Code.

(B) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of

such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services.

(2) After the applicant or employee is given the information and notification required by divisions (E)(2)(a) and (b) of this section, the applicant or employee fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the chief administrator of the waiver agency.

(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, regardless of the date of the conviction, date of entry of the guilty plea, or the date the applicant or employee was found eligible for intervention in lieu of conviction.

(C) At the time of each applicant's initial application for employment in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall inform the applicant of both of the following:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the waiver agency is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a waiver agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) ~~The~~ As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require ~~each~~ the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check ~~with respect to~~ of the applicant. If rules adopted under this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. However, a criminal records check is not required for an applicant or employee if the waiver agency is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing home and community-based services. If an applicant or employee for whom a criminal records check request is required ~~under this division~~ by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal

records check, the chief administrator shall require the applicant or employee to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check ~~of the applicant~~. Even if an applicant or employee for whom a criminal records check request is required ~~under this division~~ by this section presents proof of having been a resident of this state for the five-year period, the chief administrator may require the applicant or employee to request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall provide the following to each applicant and employee for whom a criminal records check ~~request~~ is required ~~under division (B)(1) of~~ by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard ~~fingerprint~~ impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or employee is to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator.

(3) ~~An applicant given information and notification under divisions (B)(2)(a) and (b) of this section who fails to access, complete, and forward to the superintendent the form or the standard fingerprint impression sheet, or who fails to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator, shall not be employed in any position in a waiver agency for which a criminal records check is required by this section.~~ A waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of

the Revised Code for any criminal records check required by this section. However, a waiver agency may require an applicant to pay to the bureau the fee for a criminal records check of the applicant. If the waiver agency pays the fee for an applicant, it may charge the applicant a fee not exceeding the amount the waiver agency pays to the bureau under this section if the waiver agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

~~(C)(1) Except as provided in rules adopted by the department of job and family services in accordance with division (F) of this section and subject to division (C)(2) of this section, no waiver agency shall employ a person in a position that involves providing home and community-based waiver services to persons with disabilities if the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction:~~

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02,~~

~~2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;~~

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

~~(2)(a)~~(F)(1) A waiver agency may employ conditionally an applicant for whom a criminal records check ~~request~~ is required ~~under division (B) of~~ by this section prior to obtaining the results of ~~a~~ the criminal records check ~~regarding the individual, provided that the~~ if both of the following apply:

(a) The waiver agency is not prohibited by division (B)(1) of this section from employing the applicant in a position that involves providing home and community-based services.

(b) The chief administrator of the waiver agency ~~shall require~~ requires the ~~individual~~ applicant to request a criminal records check regarding the ~~individual~~ applicant in accordance with division ~~(B)~~(E)(1) of this section not later than five business days after the ~~individual~~ applicant begins conditional employment.

~~(b)~~(2) A waiver agency that employs an ~~individual~~ applicant conditionally under ~~authority of~~ division ~~(C)(2)(a)~~(F)(1) of this section shall terminate the ~~individual's~~ applicant's employment if the results of the criminal records check ~~request under division~~

~~(B) of this section~~, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the ~~individual~~ applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for ~~any of the offenses listed or described in division (C)(1) of this section~~ a disqualifying offense, the waiver agency shall terminate the ~~individual's~~ applicant's employment unless circumstances specified in rules adopted under this section exist that permit the waiver agency to employ the applicant and the waiver agency chooses to employ the ~~individual pursuant to division (F) of this section~~ applicant.

~~(D)(1) The fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section shall be paid to the bureau of criminal identification and investigation by the applicant or the waiver agency.~~

~~(2) If a waiver agency pays the fee, it may charge the applicant a fee not exceeding the amount the agency pays under division (D)(1) of this section. An agency may collect a fee only if the agency notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.~~

~~(E)~~(G) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The ~~individual~~ applicant or employee who is the subject of the criminal records check or the ~~individual's~~ representative of the applicant or employee;

(2) The chief administrator of the waiver agency ~~requesting~~ that requires the applicant or employee to request the criminal records check or the administrator's representative;

(3) ~~An administrator at~~ The director of job and family services and the staff of the department in the administration of the medicaid program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ any of the following:

(a) A denial of employment of the applicant or ~~dealing with employment~~ employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program.

~~(F)~~(H) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. ~~The~~

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting a database review under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of a database review, the circumstances under which a waiver agency is prohibited from employing an applicant or continuing to employ an employee who is found by the database review to be included in one or more of those databases;

(d) The circumstances under which a waiver agency may employ ~~a person~~ an applicant or employee who ~~has~~ is found by a criminal records check required by this section to have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been found eligible for intervention in lieu of conviction for ~~an offense listed or described in division (C)(1) of this section~~ a disqualifying offense.

~~(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community-based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.~~

~~(H)(1) A person who, on September 26, 2003, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after September 26, 2003, unless division (H)(2) of this section applies.~~

~~(2) This section shall not apply to a person to whom all of the following apply:~~

~~(a) On September 26, 2003, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities.~~

~~(b) The person previously had been the subject of a criminal background check relating to that position;~~

~~(c) The person has been continuously employed in that position since that criminal background check had been conducted.~~

(I) The amendments made by ...B... to this section do not preclude the department of job and family services from taking action against a person for failure to comply with former division (H) of this section as that division existed on the day preceding the effective date of this amendment.

Sec. 5111.034. (A) As used in this section:

~~(1)~~ "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003.

~~(2) "Criminal~~ "Applicant" means a person who has applied for a medicaid provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component administered by the department of job and family services.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

~~(3) "Department" includes a designee of the department of job and family services.~~

~~(4) "Independent~~ "Disqualifying offense" has the same meaning

as in section 5111.032 of the Revised Code.

"Independent provider" means a person who ~~is submitting an application for a provider agreement or who~~ has a medicaid provider agreement to provide home and community-based services as an independent provider in a home and community-based services medicaid waiver component administered by the department of job and family services ~~administered home and community-based services program providing home and community-based waiver services to consumers with disabilities~~.

~~(5)~~ "Home and community-based ~~waiver~~ services medicaid waiver component" has the same meaning as in section ~~5111.033~~ 5111.85 of the Revised Code.

(B) The department of job and family services or the department's designee shall deny an applicant's application for a medicaid provider agreement and shall terminate an independent provider's medicaid provider agreement if either of the following applies:

(1) After the applicant or independent provider is given the information and notification required by divisions (D)(2)(a) and (b) of this section, the applicant or independent provider fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the department or the department's designee.

(2) Except as provided in rules adopted under this section, the applicant or independent provider is found by a criminal

records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the applicant or independent provider was found eligible for intervention in lieu of conviction.

(C)(1) The department ~~of job and family services~~ or the department's designee shall inform each ~~independent provider~~ applicant, at the time of initial application for a medicaid provider agreement ~~that involves providing home and community-based waiver services to consumers with disabilities~~, that the ~~independent provider~~ applicant is required to provide a set of the applicant's fingerprint impressions and that a criminal records check is required to be conducted ~~if the person is to become an independent provider in a department administered home and community-based waiver program~~ as a condition of the department's approving the application.

(2) Beginning on September 26, 2003, the department or the department's designee shall inform each ~~enrolled medicaid~~ independent provider on or before the time of the anniversary date of the medicaid provider agreement ~~that involves providing home and community-based waiver services to consumers with disabilities~~ that the independent provider is required to provide a set of the independent provider's fingerprint impressions and that a criminal records check is required to be conducted.

~~(C)~~(D)(1) The department or the department's designee shall require ~~the independent provider~~ an applicant to complete a criminal records check prior to entering into a medicaid provider agreement with the ~~independent provider and~~ applicant. The department or the department's designee shall require an independent provider to complete a criminal records check at least annually ~~thereafter~~. If an applicant or independent provider for

whom a criminal records check is required ~~under this division~~ by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the applicant or independent provider from the federal bureau of investigation in a criminal records check, the department or the department's designee shall request that the applicant or independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the applicant or independent provider. Even if an applicant or independent provider for whom a criminal records check request is required ~~under this division~~ by this section presents proof of having been a resident of this state for the five-year period, the department or the department's designee may request that the applicant or independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department or the department's designee shall provide the following to each applicant and independent provider for whom a criminal records check ~~request~~ is required ~~under division (C)(1) of~~ by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard ~~fingerprint~~ impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or independent provider is to instruct the superintendent to submit the completed

report of the criminal records check directly to the department or the department's designee.

(3) ~~An independent provider given information and notification under divisions (C)(2)(a) and (b) of this section who fails to access, complete, and forward to the superintendent the form or the standard fingerprint impression sheet, or who fails to instruct the superintendent to submit the completed report of the criminal records check directly to the department, shall not be approved as an independent provider.~~ Each applicant and independent provider for whom a criminal records check is required by this section shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for the criminal records check conducted of the applicant or independent provider.

~~(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction:~~

~~(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41,~~

~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;~~

~~(2) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section.~~

~~(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section.~~

~~(F)~~(E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under ~~division (C) of~~ this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) ~~An administrator at~~ The director of job and family services and the staff of the department ~~or the administrator's representative~~ in the administration of the medicaid program;

(3) The department's designee;

(4) An individual who receives home and community-based services from the person who is the subject of the criminal records check;

(5) A court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ either of the following:

(a) A denial or termination of a provider agreement related to the criminal records check;

(b) A civil or criminal action regarding the medicaid program.

~~(G)~~(F) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department or the department's designee may either ~~issue a provider agreement to an independent provider~~ approve an applicant's application or allow an independent provider to maintain an existing medicaid provider agreement ~~when~~ even though the applicant or independent provider ~~has~~ is found by a criminal records check required by this section to have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been found eligible for intervention in lieu of conviction for ~~an offense listed or described in division (D)(1) or (2) of this section~~ a disqualifying offense.

Sec. 5111.06. (A)(1) As used in this section and in sections 5111.061 and 5111.063 of the Revised Code:

(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the

department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) This section does not apply to ~~any~~ either of the following:

(a) Any action taken or decision made by the department of job and family services with respect to entering into or refusing to enter into a contract with a managed care organization pursuant to section 5111.17 of the Revised Code;

(b) Any action taken by the department under ~~sections 5111.16 to 5111.177 or~~ sections 5111.35 to 5111.62 of the Revised Code.

(B) Except as provided in division (D) of this section and section 5111.914 of the Revised Code, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division

(B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the provider has not obtained the license, permit, certificate, or certification.

(3) The provider agreement is denied, terminated, or not renewed due to the termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of job and family services, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state.

(4) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (F) of section 5111.03 of the Revised Code.

(5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act" or from another state's medicaid program and, in either case, the termination, suspension, or

exclusion is binding on the provider's participation in the medicaid program in this state.

(6) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program.

(7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(8) Pursuant to either section 5111.031 or 5111.035 of the Revised Code, the provider agreement is suspended and payments to the provider are suspended pending indictment of the provider.

(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code.

(10) The provider agreement is converted under section 5111.028 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified for re-enrollment pursuant to section 5111.028 of the Revised Code.

(12) The provider agreement is suspended or terminated, or an application for enrollment or re-enrollment is denied, for any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450.

(13) The provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer.

(14) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.

In the case of a provider described in division (D)(13) or (14) of this section, the department may take its proposed action against a provider agreement by sending a notice explaining the proposed action to the provider. The notice shall be sent to the provider's address on record with the department. The notice may be sent by regular mail.

(E) The department may withhold payments for services rendered by a medicaid provider under the medicaid program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code.

Sec. 5111.091. ~~Not later than the first day of each calendar quarter~~ Semiannually, the director of job and family services shall submit ~~a report~~ to the president and minority leader of the senate, speaker and minority leader of the house of representatives, and the chairpersons of the standing committees

of the senate and house of representatives ~~that hear bills~~ with primary responsibility for legislation making biennial appropriations a report on the establishment and implementation of programs designed to control the increase of the cost of the medicaid program, increase the efficiency of the medicaid program, and promote better health outcomes. In each calendar year, one report shall be submitted not later than the last day of June and the subsequent report shall be submitted not later than the last day of December.

~~The report shall include information regarding all of the following:~~

~~(A) Provider network management;~~

~~(B) Electronic claims submission and payment systems;~~

~~(C) Limited provider contracts and payments based on performance;~~

~~(D) Efforts to enforce third party liability;~~

~~(E) Implementation of the medicaid information technology system;~~

~~(F) Expansion of the medicaid data warehouse and decision support system;~~

~~(G) Development of infrastructure policies for electronic health records and e-prescribing.~~

Sec. 5111.113. (A) As used in this section:

(1) ~~"Adult care facility" has the same meaning as in section 5119.70 of the Revised Code.~~

~~(2)~~ "Commissioner" means a person appointed by a probate court under division (E) of section 2113.03 of the Revised Code to act as a commissioner.

~~(3)~~(2) "Home" has the same meaning as in section 3721.10 of

the Revised Code.

~~(4)~~(3) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident.

(4) "Residential facility" means a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of ~~an adult care facility or~~ a home or residential facility shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the ~~facility or~~ home or facility who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The ~~adult care facility or~~ home or facility shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate.

(C) If funeral or burial expenses for a resident of ~~an adult care facility or~~ a home or residential facility who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of job and family services pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of ~~an~~

~~adult care facility or~~ a home or residential facility dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under section 2113.03 of the Revised Code, concerning the resident's estate, the owner or operator of the ~~facility or~~ home or facility shall transfer the money in the resident's personal needs allowance account to the administrator, executor, commissioner, or person who filed the application for release from administration.

(E) The transfer or use of money in a resident's personal needs allowance account in accordance with division (B), (C), or (D) of this section discharges and releases the ~~adult care facility or~~ home or residential facility, and the owner or operator of the ~~facility or~~ home, from any claim for the money from any source.

(F) If, sixty-one or more days after a resident of ~~an adult care facility or~~ a home or residential facility dies, letters testamentary or letters of administration are issued, or an application for release from administration under section 2113.03 of the Revised Code is filed, concerning the resident's estate, the department of job and family services shall transfer the funds to the administrator, executor, commissioner, or person who filed the application, unless the department is entitled to recover the money under the medicaid estate recovery program instituted under section 5111.11 of the Revised Code.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

(B) The department shall implement the care management system

in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the department's implementation of the system and designation of participants, all of the following apply:

(1) In the case of individuals who receive medicaid on the basis of being included in the category identified by the department as covered families and children, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for individuals included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

(2) In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division ~~(A)~~(C)(2) of section 5111.01 of the Revised Code, the department shall implement the care management system in all counties. Except as provided in division (C) of this section, all individuals included in the category shall be designated for participation. The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug addiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.

(C)(1) In designating participants who receive medicaid on

the basis of being aged, blind, or disabled, the department shall not include any of the following, except as provided under division (C)(2) of this section:

(a) Individuals who are under twenty-one years of age;

(b) Individuals who are institutionalized;

(c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements;

(d) Individuals who are dually eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended;

(e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component, as defined in section 5111.85 of the Revised Code.

(2) If any necessary waiver of federal medicaid requirements is granted, the department may designate any of the following individuals who receive medicaid on the basis of being aged, blind, or disabled as individuals who are permitted or required to participate in the care management system:

(a) Individuals who are under twenty-one years of age;

(b) Individuals who reside in a nursing facility, as defined in section 5111.20 of the Revised Code;

(c) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component, as defined in section 5111.85 of the Revised Code;

(d) Individuals who are dually eligible under the medicaid program and the medicare program.

(D) Subject to division (B) of this section, the department

may do both of the following under the care management system:

(1) Require or permit participants in the system to obtain health care services from providers designated by the department;

(2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.

(E)(1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components:

(a) The required designation of participants included in the category identified by the department as covered families and children;

(b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;

(c) The use of any programs for enhanced care management.

(2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.

(F) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.161. (A) As used in this section:

(1) "Children's care network" means any of the following:

(a) A children's hospital;

(b) A group of children's hospitals;

(c) A group of pediatric physicians~~;~~.

(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

(B) If the department of job and family services includes in the care management system, pursuant to section 5111.16 of the Revised Code, individuals under twenty-one years of age included in the category of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division ~~(A)~~(C)(2) of section 5111.01 of the Revised Code, the department shall develop a system to recognize entities as pediatric accountable care organizations. The purpose of the recognition system shall be to meet the complex medical and behavioral needs of disabled children through new approaches to care coordination. The department shall implement the recognition system not later than July 1, 2012.

An entity recognized by the department as a pediatric accountable care organization may develop innovative partnerships between relevant groups and may contract directly or subcontract with the state to provide services to the medicaid recipients under twenty-one years of age described in this division who are permitted or required to participate in the care management system.

(C)(1) To be recognized by the department as a pediatric accountable care organization, an entity shall meet the standards established in rules adopted under this section. Unless required by sections 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj, the regulations adopted pursuant to those sections, and the laws of this state, the department shall not require that an entity be a health insuring corporation as a condition of receiving the department's recognition.

(2) Any of the following entities may receive the

department's recognition, if the standards for recognition have been met:

(a) A children's care network;

(b) A children's care network that may include one or more other entities, including, but not limited to, health insuring corporations or other managed care organizations;

(c) Any other entity the department determines is qualified.

(D) The department shall consult with all of the following in adopting rules under division (E) of this section necessary for an entity to be recognized by the department as a pediatric accountable care organization:

(1) The superintendent of insurance;

(2) Children's hospitals;

(3) Managed care organizations under contract pursuant to section 5111.17 of the Revised Code;

(4) Any other relevant entities, as determined necessary by the department, with interests in pediatric accountable care organizations.

(E) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. In adopting the rules, the department shall do all of the following:

(1) Establish application procedures to be followed by an entity seeking recognition as a pediatric accountable care organization;

(2) Ensure that the standards for recognition as a pediatric accountable care organization are the same as and do not conflict with those specified in sections 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42

U.S.C. 1395jjj or the regulations adopted pursuant to those sections;

(3) Establish requirements regarding the access to pediatric specialty care provided through or by a pediatric accountable care organization;

(4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization;

(5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department;

(6) Establish transparency and consumer protection requirements for an entity recognized as a pediatric accountable care organization;

(7) Establish a process for sharing data.

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state.

Sec. 5111.171. ~~(A)~~ The department of job and family services may provide financial incentive awards to managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code that meet or exceed performance standards specified in provider agreements or rules adopted by the department. The department may specify in a contract with a managed care organization the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the department.

~~(B) There is hereby created in the state treasury the health care compliance fund. The fund shall consist of all fines imposed on and collected from managed care organizations for failure to meet performance standards or other requirements specified in provider agreements or rules adopted by the department. All~~

~~investment earnings of the fund shall be credited to the fund. Moneys credited to the fund shall be used solely for the following purposes:~~

~~(1) To reimburse managed care organizations that have paid fines for failures to meet performance standards or other requirements and that have come into compliance by meeting requirements as specified by the department;~~

~~(2) To provide financial incentive awards established pursuant to division (A) of this section and specified in contracts between managed care organizations and the department.~~

Sec. 5111.20. As used in sections 5111.20 to 5111.331 of the Revised Code:

(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code.

(B) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs<u>, tax costs,</u> or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social services, pharmacy consultants, habilitation supervisors, qualified mental retardation professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, ~~wheelchairs, resident transportation,~~ maintenance and repairs, help-wanted advertising, informational advertising, start-up costs,

organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services under section 5111.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(C) "Capital costs" means costs of ownership and, in the case of an intermediate care facility for the mentally retarded, costs of nonextensive renovation.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section 5111.251 of the Revised Code;

(iii) Except as provided in division (B) of this section, equipment;

(iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations;

(v) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.

(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date

the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(2) The definition of "date of licensure" in this section applies in determinations of the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded but does not apply in determinations of the franchise permit fee for a nursing facility or intermediate care facility for the mentally retarded.

(G) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs.

(H) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division (H)(2) of this section, other persons holding degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (H)(1)(a), (b), and (d) of this section;

(f) Costs of consulting and management fees related to direct care;

(g) Allocated direct care home office costs.

(2) In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include costs of habilitation staff (other than habilitation supervisors), medical supplies, oxygen, over-the-counter pharmacy products, behavioral and mental health services, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, wheelchairs, resident transportation, and universal precautions supplies.

(3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified mental retardation professionals, program directors, social services staff, activities staff, off-site day programming, psychologists and psychology assistants, and social workers and counselors;

(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or

costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in division (H)(3)(a) of this section.

(4) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5111.02 of the Revised Code.

(I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(J) "Franchise permit fee" means the following:

(1) In the context of nursing facilities, the fee imposed by sections 3721.50 to 3721.58 of the Revised Code;

(2) In the context of intermediate care facilities for the mentally retarded, the fee imposed by sections 5112.30 to 5112.39 of the Revised Code.

(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules

adopted under section 5111.02 of the Revised Code, for personnel listed in this division. Notwithstanding division (C)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(L) "Inpatient days" means ~~all~~ the following:

(1) In the context of a nursing facility, both of the following:

(a) All days during which a resident, regardless of payment source, occupies a bed in a nursing facility ~~or intermediate care facility for the mentally retarded~~ that is included in the nursing facility's certified capacity under Title XIX~~. Therapeutic or hospital leave~~;

(b) Fifty per cent of the days for which payment is made under section ~~5111.33 or~~ 5111.331 of the Revised Code ~~are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days~~.

(2) In the context of an intermediate care facility for the mentally retarded, both of the following:

(a) All days during which a resident, regardless of payment source, occupies a bed in an intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX;

(b) All days for which payment is made under section 5111.33 of the Revised Code.

(M) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the

medicaid program by the director of health in accordance with Title XIX.

(N) "Maintenance and repair expenses" means, except as provided in division (BB)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering.

(O) "Medicaid days" means ~~all~~ the following:

(1) In the context of a nursing facility, both of the following:

(a) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified capacity under Title XIX~~. Therapeutic or hospital leave;~~

(b) Fifty per cent of the days for which payment is made under section ~~5111.33 or~~ 5111.331 of the Revised Code ~~are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days~~.

(2) In the context of an intermediate care facility for the mentally retarded, both of the following:

(a) All days during which a resident who is a medicaid recipient eligible for intermediate care facility for the mentally retarded services occupies a bed in an intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX;

(b) All days for which payment is made under section 5111.33 of the Revised Code.

(P) "Nursing facility" means a facility, or a distinct part

of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is certified as a skilled nursing facility by the director in accordance with Title XVIII.

(Q) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.

(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5111.02 of the Revised Code.

(S)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded:

(a) The land on which the facility is located;

(b) The structure in which the facility is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located;

(d) Any lease or sublease of the land or structure on or in which the facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary.

(T) "Patient" includes "resident."

(U) Except as provided in divisions (U)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.241 of the Revised Code, "per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(V) "Provider" means an operator with a provider agreement.

(W) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally

retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medicaid program.

(X) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(Z) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(AA) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Stepparent, stepchild, stepbrother, or stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster sister.

(BB) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.

(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993:

(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.

(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

For the purposes of division (BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for

shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

The department of job and family services may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

(CC) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.

(DD) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(DD)~~(EE) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 5111.222. (A) Except as otherwise provided by sections 5111.20 to 5111.331 of the Revised Code and by division (B) of this section, the total rate that the department of job and family services shall agree to pay for a fiscal year to the provider of a nursing facility pursuant to a provider agreement shall equal the sum of all of the following:

(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code;

(2) The rate for ancillary and support costs determined for the nursing facility's ancillary and support cost peer group under section 5111.24 of the Revised Code;

(3) The rate for tax costs determined for the nursing facility under section 5111.242 of the Revised Code;

(4) The quality incentive payment paid to the nursing facility under section 5111.244 of the Revised Code;

(5) If the nursing facility qualifies as a critical access nursing facility, the critical access incentive payment paid to the nursing facility under section 5111.246 of the Revised Code;

(6) The rate for capital costs determined for the nursing facility's capital costs peer group under section 5111.25 of the Revised Code.

(B) The department shall adjust the rates otherwise determined under division (A) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that establishes factors by which the rates are to be adjusted.

(C) In addition to paying a nursing facility provider the total rate determined for the nursing facility under division (A) of this section for a fiscal year, the department shall pay the provider a quality bonus under section 5111.245 of the Revised Code for that fiscal year if the provider's nursing facility is a qualifying nursing facility, as defined in that section, for that fiscal year. The quality bonus shall not be part of the total rate.

Sec. 5111.23. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly.

(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following:

(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section 5111.232 of the Revised Code for the same calendar year.

(2)(a) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid ~~inpatient~~ day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (E)(2) of this section.

(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid ~~inpatient~~ day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (E)(3) of this section.

(c) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) and (b) of this section for each peer group, the department shall exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month

period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the index specified in division (C) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division (E) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.

(C) The department shall use the following index for the purpose of division (B)(3) of this section:

(1) The employment cost index for total compensation, health services component, published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(1) of this section, the index that is subsequently published by the bureau and covers nursing facilities' staff costs.

(D) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:

(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division (D)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

(E)(1) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid ~~inpatient~~ day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid ~~inpatient~~ days for such facilities for calendar year 1992.

(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid ~~inpatient~~ day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid ~~inpatient~~ days for such facilities for calendar year 1992.

(F) The director of job and family services shall adopt rules

under section 5111.02 of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded with more than eight beds and intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem direct care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem direct care cost differences due to other factors which may include case-mix.

(G) The department, in accordance with division (D) of section 5111.232 of the Revised Code and rules adopted under division (F) of that section, may assign case-mix scores or costs per case-mix unit if a provider fails to submit assessment data necessary to calculate an intermediate care facility for the mentally retarded's case-mix score in accordance with that section.

Sec. 5111.242. (A) As used in this section~~:~~

~~(1) "Applicable~~, "applicable calendar year" means the following:

~~(a)~~(1) For the purpose of the department of job and family services' initial determination under this section of nursing facilities' rate for tax costs, calendar year 2003;

~~(b)~~(2) For the purpose of the department's subsequent determinations under division (C) of this section of nursing facilities' rate for tax costs, the calendar year the department selects.

~~(2) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.~~

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a

per resident per day rate for tax costs determined under division (C) of this section.

(C) At least once every ten years, the department shall determine the rate for tax costs for each nursing facility. The rate for tax costs determined under this division for a nursing facility shall be used for subsequent years until the department redetermines it. To determine a nursing facility's rate for tax costs and except as provided in division (D) of this section, the department shall divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for the applicable calendar year by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during the applicable calendar year.

(D) If a nursing facility had a credit regarding its real estate taxes reflected on its cost report for calendar year 2003, the department shall determine its rate for tax costs for the period beginning on July 1, 2010, and ending on the first day of the fiscal year for which the department first redetermines all nursing facilities' rate for tax costs under division (C) of this section by dividing the nursing facility's desk-reviewed, actual, allowable tax costs paid for calendar year 2004 by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during calendar year 2004.

Sec. 5111.246. (A) Each fiscal year, the department of job and family services shall pay a critical access incentive payment to the provider of each nursing facility that qualifies as a critical access nursing facility. To qualify as a critical access nursing facility for a fiscal year, a nursing facility must meet all of the following requirements:

(1) The nursing facility must be located in an area that, on

December 31, 2011, was designated an empowerment zone under section 1391 of the "Internal Revenue Code of 1986," 107 Stat. 543, 26 U.S.C. 1391, as amended.

(2) The nursing facility must have an occupancy rate of at least eighty-five per cent as of the last day of the calendar year preceding the fiscal year.

(3) The nursing facility must have a medicaid utilization rate of at least sixty-five per cent as of the last day of the calendar year preceding the fiscal year.

(B) A critical access nursing facility's critical access incentive payment for a fiscal year shall equal five per cent of the portion of the nursing facility's total rate for the fiscal year that is the sum of the rates and payment identified in divisions (A)(1) to (4) and (6) of section 5111.222 of the Revised Code.

Sec. 5111.254. (A) The department of job and family services shall establish initial rates for a nursing facility with a first date of licensure that is on or after July 1, 2006, including a facility that replaces one or more existing facilities, or for a nursing facility with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section 5111.231 of the Revised Code for the facility's peer group and the nursing facility's case-mix score. For the purpose of division (A)(1) of this section, the nursing facility's case-mix score shall be the following:

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately

before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group;

(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities.

(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code.

(3) The rate for capital costs shall be the rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code.

(4) The rate for tax costs ~~as defined in section 5111.242 of the Revised Code~~ shall be the median rate for tax costs for the facility's peer group in which the facility is placed under division (C) of section 5111.24 of the Revised Code.

(5) The quality incentive payment shall be the mean payment made to nursing facilities under section 5111.244 of the Revised Code.

(B) Subject to division (C) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under sections 5111.20 to 5111.331 of the Revised Code.

(C) If a rate for direct care costs is determined under this section for a nursing facility using the median annual average

case-mix score for the nursing facility's peer group, the rate shall be redetermined to reflect the replacement nursing facility's actual semiannual case-mix score determined under section 5111.232 of the Revised Code after the nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If the nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the nursing facility's peer group in lieu of the nursing facility's semiannual case-mix score until the nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score.

Sec. 5111.862. (A) As used in this section:

"Hospital long-term care unit" has the same meaning as in section 3721.50 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Ohio home care program" means the medicaid waiver component created under section 5111.861 of the Revised Code.

"Residential treatment facility" means a residential facility licensed by the department of mental health under section 5119.22 of the Revised Code<u>, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code,</u> that serves children and either has more than sixteen beds or is part of a campus of multiple facilities <u>or institutions</u> that, combined, have a total of more than sixteen beds.

(B) Subject to division (C) of section 5111.861 of the Revised Code, the department of job and family services shall

establish a home first component for the Ohio home care program. An individual is eligible for the Ohio home care program's home first component if the individual has been determined to be eligible for the Ohio home care program and at least one of the following applies:

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual applies for the Ohio home care program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time the individual applies for the Ohio home care program.

(6) At the time the individual applies for the Ohio home care program, the individual participates in the money follows the person demonstration project authorized by section 6071 of the "Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, and either resides in a residential treatment facility or

inpatient hospital setting.

(C) An individual determined to be eligible for the home first component of the Ohio home care program shall be enrolled in the Ohio home care program in accordance with rules adopted under section 5111.85 of the Revised Code.

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code:

"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services.

"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a residential facility under section 5123.19 of the Revised Code.

"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, the operator of an intermediate care facility for the mentally retarded may convert some or all of the beds in the facility from providing ICF/MR services to providing home and community-based services if

all of the following requirements are met:

(1) The operator provides the directors of health~~, job and family services,~~ and developmental disabilities at least ninety days' notice of the operator's intent to make the conversion.

(2) The operator complies with the requirements of sections 5111.65 to 5111.689 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) If the operator intends to convert all of the facility's beds, the operator notifies each of the facility's residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the operator intends to convert some but not all of the facility's beds, the operator notifies each of the facility's residents that the facility is to convert some of its beds from providing ICF/MR services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's license as a residential facility ~~license~~ under section 5123.19 of the Revised Code.

(6) The ~~directors~~ director of developmental disabilities ~~and job and family services approve~~ approves the conversion.

(C) A decision by the ~~directors~~ director of developmental disabilities to approve or refuse to approve a proposed conversion of beds is final. In making a decision, the ~~directors~~ director shall consider all of the following:

(1) The fiscal impact on the facility if some but not all of the beds are converted;

(2) The fiscal impact on the medical assistance program;

(3) The availability of home and community-based services.

(D) The notice provided to the directors under division (B)(1) of this section shall specify whether some or all of the facility's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the facility's beds are to be converted and how many of the beds are to continue to provide ICF/MR services. The notice to the director

of developmental disabilities shall specify whether the operator wishes to surrender the facility's license as a residential facility under section 5123.19 of the Revised Code.

(E)(1) If the ~~directors~~ director of developmental disabilities ~~and job and family services approve~~ approves a conversion under division (C) of this section, the director of health shall do the following:

(a) Terminate the certification of the intermediate care facility for the mentally retarded if the notice specifies that all of the facility's beds are to be converted;

(b) Reduce the facility's certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted.

(2) The director of health shall notify the director of job and family services of the termination or reduction. On receipt of the director of health's notice, the director of job and family services shall do the following:

(a) Terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/MR services at the facility if the facility's certification was terminated;

(b) Amend the operator's medicaid provider agreement to reflect the facility's reduced certified capacity if the facility's certified capacity is reduced.

(3) In the case of action taken under division (E)(2)(a) of this section, the operator is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates the medicaid provider agreement.

Sec. 5111.877. The director of job and family services may seek approval from the United States secretary of health and human services for not more than a total of ~~two~~ five hundred slots for

home and community-based services for the purposes of sections 5111.874, 5111.875, and 5111.876 of the Revised Code.

Sec. 5111.878. Not more than a total of ~~one~~ five hundred beds may be converted from providing ICF/MR services to providing home and community-based services under sections 5111.874 and 5111.875 of the Revised Code.

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of the Revised Code:

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

"Assisted living program" means the program created under this section.

"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.

"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program.

"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity

to administer the long-term care consultation program for a particular area, that agency or entity.

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) There is hereby created the assisted living program. The program shall provide assisted living services to individuals who meet the program's applicable eligibility requirements. Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component.

(C)(1) Unless the medicaid-funded component of the assisted living program is terminated under division (C)(2) of this section, all of the following apply:

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code.

(b) The contract shall include an estimate of the medicaid-funded component's costs.

(c) The medicaid-funded component shall be operated as a separate medicaid waiver component.

(d) The medicaid-funded component may not serve more individuals than is set by the United States secretary of health and human services in the assisted living waiver.

(e) The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the medicaid-funded component.

(f) The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the medicaid-funded component that the rules adopted by the director of job and family services under division (C)(1)(e) of this section authorize the director of aging to adopt.

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the medicaid-funded component of the assisted living program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the assisted living program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

(D) The department of aging shall administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.

An individual who is eligible for the state-funded component may participate in the component for not more than ~~three months~~ ninety days.

The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component.

Sec. 5111.894. (A) Subject to division (C)(2) of section 5111.89 of the Revised Code, the department of aging shall establish a home first component of the assisted living program

under which eligible individuals may be enrolled in the medicaid-funded component of the assisted living program in accordance with this section. An individual is eligible for the assisted living program's home first component if both of the following apply:

(1) The individual has been determined to be eligible for the medicaid-funded component of the assisted living program.

(2) At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the assisted living program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based

services such as the assisted living program, the individual should be admitted to a nursing facility.

~~(e) The individual resided in a residential care facility for at least six months immediately before applying for the medicaid-funded component of the assisted living program and is at risk of imminent admission to a nursing facility because the costs of residing in the residential care facility have depleted the individual's resources such that the individual is unable to continue to afford the cost of residing in the residential care facility.~~

(B) Each month, each area agency on aging shall identify individuals residing in the area that the area agency on aging serves who are eligible for the home first component of the assisted living program. When an area agency on aging identifies such an individual and determines that there is a vacancy in a residential care facility participating in the medicaid-funded component of the assisted living program that is acceptable to the individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the assisted living program is appropriate for the individual and whether the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility. If the administrator determines that the assisted living program is appropriate for the individual and the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department shall approve the individual's enrollment in the medicaid-funded component of the assisted living program regardless of the unified waiting list established under section 173.404 of the Revised Code, unless the enrollment would

cause the component to exceed any limit on the number of individuals who may participate in the component as set by the United States secretary of health and human services in the assisted living waiver.

Sec. 5111.941. (A) The ~~medicaid revenue and collections~~ health care/medicaid support and recoveries fund is hereby created in the state treasury. ~~Except~~ All of the following shall be credited to the fund:

(1) Except as otherwise provided by statute or as authorized by the controlling board, the nonfederal share of all medicaid-related revenues, collections, and recoveries ~~shall be credited to the fund~~;

(2) Federal reimbursement received for payment adjustments made pursuant to section 1923 of the "Social Security Act," 101 Stat. 1330-148 (1987), 42 U.S.C. 1396r-4, as amended, under the medicaid program to state mental health hospitals maintained and operated by the department of mental health under division (A) of section 5119.02 of the Revised Code;

(3) Revenues the department of job and family services receives from another state agency for medicaid services pursuant to an interagency agreement, other than such revenues required to be deposited into the health care services administration fund created under section 5111.94 of the Revised Code;

(4) The first seven hundred fifty thousand dollars the department receives in a fiscal year for performing eligibility verification services necessary for compliance with the independent, certified audit requirement of 42 C.F.R. 455.304.

(B) The department of job and family services shall use money credited to the ~~medicaid revenue and collections~~ health care/medicaid support and recoveries fund to pay for medicaid

services and contracts.

Sec. 5111.946. (A) As used in this section, "medicaid managed care organization" means a managed care organization under contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(B) There is hereby created in the state treasury the health care compliance fund. All of the following shall be credited to the fund:

(1) All fines imposed on and collected from medicaid managed care organizations for failure to meet performance standards or other requirements specified in provider agreements or rules adopted by the department;

(2) Money the department receives in a fiscal year for performing eligibility verification services necessary for compliance with the independent, certified audit requirement of 42 C.F.R. 455.304, other than the amounts of such money that are to be credited to the health care/medicaid support and recoveries fund under section 5111.941 of the Revised Code;

(3) All investment earnings of the fund.

(C) Money credited to the health care compliance fund shall be used solely for the following purposes:

(1) To reimburse medicaid managed care organizations that have paid fines for failure to meet performance standards or other requirements and have come into compliance by meeting requirements as specified by the department;

(2) To provide financial incentive awards established pursuant to section 5111.171 of the Revised Code and specified in contracts between medicaid managed care organizations and the department.

Sec. 5111.96. (A) As used in this section, "MFP demonstration project" means a money follows the person demonstration project that the United States secretary of health and human services is authorized to award under section 6071 of the Deficit Reduction Act of 2005 (Pub. L. No. 109-171, as amended).

(B) To the extent funds are available under an MFP demonstration project awarded to the department of job and family services, the director of job and family services may operate the helping Ohioans move, expanding (HOME) choice demonstration component of the medicaid program to transition medicaid recipients who qualify for the demonstration component to community settings. The director may adopt rules in accordance with Chapter 119. of the Revised Code for the administration and operation of the demonstration component.

Sec. 5111.97. (A) As used in this section~~, "nursing~~:

(1) "Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(2) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The project may be established as a separate nonmedicaid program or integrated into a new or existing ~~program of medicaid-funded~~ home and community-based services ~~authorized by a~~ medicaid waiver ~~approved by the United States department of health and human services~~ component. The director shall permit any recipient of

medicaid-funded nursing facility services to apply for participation in the project, but may limit the number of project participants.

The director shall ensure that an assessment of an applicant is conducted as soon as practicable to determine whether the applicant is eligible for participation in the project. To the maximum extent possible, the assessment and eligibility determination shall be completed not later than the date that occurs six months after the applicant became a recipient of medicaid-funded nursing facility services.

(C) To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements:

(1) The medicaid recipient must be a recipient of medicaid-funded nursing facility services, at the time of applying for the project benefits.

(2) If the project is established as a nonmedicaid program, the medicaid recipient must be able to remain in the community as a result of receiving project benefits and the projected cost of the benefits to the project does not exceed eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility.

(3) If the project is integrated into a ~~medicaid-funded~~ home and community-based services medicaid waiver ~~program~~ component, the medicaid recipient must meet the waiver component's enrollment criteria.

(D) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:

(1) The first month's rent in a community setting;

(2) Rental deposits;

(3) Utility deposits;

(4) Moving expenses;

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.

(E) If the project is established as a nonmedicaid program, no participant may receive more than two thousand dollars' worth of benefits under the project.

(F) If the department of job and family services enters into a contract with an entity to provide fiscal management services regarding the project, the contract may provide for a portion of a participant's benefits under the project to be paid to the contracting entity. The contract shall specify the portion to be paid to the contracting entity.

(G) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," ~~79~~ 95 Stat. ~~286~~ 809 (~~1965~~ 1981), 42 U.S.C. 1396n, as amended, to create a ~~medicaid~~ home and community-based services medicaid waiver ~~program~~ component to serve individuals who meet the criteria for participation in the Ohio access success project. ~~The~~

(H) The director may adopt rules ~~under~~ in accordance with Chapter 119. of the Revised Code for the administration and operation of the project. If the project is integrated into a home and community-based services medicaid waiver component, the rules shall be adopted under section 5111.85 of the Revised Code.

Sec. 5112.31. The department of job and family services shall do all of the following:

(A) Subject to section 5112.331 of the Revised Code and divisions (B) and (C) of this section and for the purposes

specified in ~~sections 5112.37 and~~ section 5112.371 of the Revised Code, assess for each fiscal year each intermediate care facility for the mentally retarded a franchise permit fee equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year.

(B) If the total amount of the franchise permit fee assessed under division (A) of this section for a fiscal year exceeds the indirect guarantee percentage of the actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year and seventy-five per cent or more of the total number of intermediate care facilities for the mentally retarded receive enhanced medicaid payments or other state payments equal to seventy-five per cent or more of their total franchise permit fee assessments, do both of the following:

(1) Recalculate the assessments under division (A) of this section using a per bed per day rate equal to the indirect guarantee percentage of actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by

sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C.~~A.~~ 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.33. (A) Not later than the fifteenth day of August of each year, the department of job and family services shall determine the annual franchise permit fee for each intermediate care facility for the mentally retarded in accordance with section 5112.31 of the Revised Code.

(B) Not later than the first day of September of each year, the department shall mail to each intermediate care facility for the mentally retarded notice of the amount of the franchise permit fee the facility has been assessed under section 5112.31 of the Revised Code.

(C) ~~Each~~ Subject to section 5112.331 of the Revised Code, each intermediate care facility for the mentally retarded shall pay its fee under section 5112.31 of the Revised Code to the department in quarterly installment payments not later than forty-five days after the last day of each September, December, March, and June.

Sec. 5112.331. (A) If, during the period beginning on the first day of May of a calendar year and ending on the first day of January of the immediately following calendar year, the operator of an intermediate care facility for the mentally retarded converts, pursuant to section 5111.874 of the Revised Code, one or more of the facility's beds to providing home and community-based services, the department of job and family services shall do the following:

(1) If the facility's medicaid certification is terminated because of the conversion, terminate the facility's franchise permit fee effective on the first day of the quarter immediately following the quarter in which the department receives the notice of the conversion from the director of health;

(2) If the facility's certified capacity under medicaid is reduced because of the conversion, redetermine the facility's franchise permit fee in accordance with division (B) of this section for the second half of the fiscal year for which the fee is assessed.

(B)(1) To redetermine an intermediate care facility for the mentally retarded's franchise permit fee, the department shall multiply the franchise permit fee rate by the product of the following:

(a) The number of the facility's beds that remain certified under Title XIX of the "Social Security Act" as of the date the conversion takes effect;

(b) The number of days in the second half of the fiscal year for which the redetermination is made.

(2) The intermediate care facility for the mentally retarded shall pay its franchise permit fee as redetermined under division (B)(1) of this section in installment payments not later than forty-five days after the last day of March and June of the fiscal year for which the redetermination is made.

Sec. 5112.341. (A) In addition to assessing a penalty pursuant to section 5112.34 of the Revised Code, the department of job and family services may do any of the following if an intermediate care facility for the mentally retarded fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount less than or equal to the installment

and penalty assessed under section 5112.34 of the Revised Code from a medicaid payment due the facility until the facility pays the installment and penalty;

(2) Offset an amount less than or equal to the installment and penalty assessed under section 5112.34 of the Revised Code from a ~~Medicaid~~ medicaid payment due the ~~nursing~~ facility ~~or hospital~~;

(3) Terminate the facility's medicaid provider agreement.

(B) The department may offset a medicaid payment under division (A) of this section without providing notice to the intermediate care facility for the mentally retarded and without conducting an adjudication under Chapter 119. of the Revised Code.

Sec. 5112.37. There is hereby created in the state treasury the home and community-based services for the mentally retarded and developmentally disabled fund. ~~Eighty-one and seventy-seven hundredths per cent of all~~ All installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code ~~for state fiscal year 2012~~ shall be deposited into the fund. ~~Eighty-two and two tenths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2013 and thereafter shall be deposited into the fund. The department~~ As soon as possible after the end of each quarter, the director of job and family services shall ~~distribute~~ certify to the director of budget and management the amount of money ~~in~~ that is in the fund ~~in accordance with rules adopted under section 5112.39 of the Revised Code~~ as of the last day of that quarter. ~~The departments of job and family services and developmental disabilities shall use the money for the medicaid program established under Chapter 5111. of the Revised Code and home and~~

~~community-based services to mentally retarded and developmentally disabled persons.~~ On receipt of a certification, the director of budget and management shall transfer the amount so certified from the home and community-based services for the mentally retarded and developmentally disabled fund to the department of developmental disabilities operating and services fund created under section 5112.371 of the Revised Code.

Sec. 5112.371. There is hereby created in the state treasury the department of developmental disabilities operating and services fund. ~~All installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code that are not deposited into the home and community-based services for the mentally retarded and developmentally disabled fund shall be deposited into the department of developmental disabilities operating and services~~ The fund shall consist of the money transferred to it under section 5112.37 of the Revised Code. The money in the fund shall be used for the expenses of the programs that the department of developmental disabilities administers and the department's administrative expenses.

Sec. 5112.39. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do ~~all~~ both of the following:

(A) Prescribe the actions the department will take to cease implementation of sections 5112.30 to 5112.39 of the Revised Code if the United States secretary of health and human services determines that the franchise permit fee imposed under section 5112.31 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," ~~49~~ 105 Stat. ~~620~~ 1793 (~~1935~~ 1991), 42 U.S.C.~~A.~~ 1396b(w), as amended;

~~(B) Establish the method of distributing the money in the home and community-based services for the mentally retarded and developmentally disabled fund created by section 5112.37 of the Revised Code;~~

~~(C)~~ Establish any other requirements or procedures the director considers necessary to implement sections 5112.30 to 5112.39 of the Revised Code.

Sec. 5119.22. (A)~~(1)~~ As used in this section and section 5119.221 of the Revised Code:

~~(a)~~(1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.

(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.

(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.

(4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age.

(5) "Community mental health agency" means a community mental health agency as defined in division (H) of section 5122.01 of the Revised Code.

~~(b)~~(6) "Community mental health services" means any of the services listed in section 340.09 of the Revised Code.

~~(c)~~(7) "Operator" means the person that is responsible for the administration and management of a residential facility.

(8) "Personal care services" means services including, but not limited to, the following:

~~(i)~~(a) Assisting residents with activities of daily living;

~~(ii)~~(b) Assisting residents with self-administration of medication in accordance with rules adopted under this section;

~~(iii)~~(c) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)~~(1)(c)~~(8) of this section to be considered to be providing personal care services.

~~(d)~~(9) "Residential facility" means a publicly or privately operated home or facility that provides one of the following:

~~(i) Room and board~~ (a) Accommodations, supervision, personal care services, and community mental health services ~~to~~ for one or more of the following unrelated persons ~~with mental illness or persons with severe mental disabilities~~ who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner~~,~~:

(i) Adults with mental illness;

(ii) Persons of any age with severe mental disabilities;

(iii) Children with serious emotional disturbances or in need of mental health services.

~~(ii) Room and board~~ (b) Accommodations and personal care services for only one or two adults who are unrelated to the owner of the facility; accommodations, supervision, and personal care services ~~to~~ for three to sixteen unrelated adults; or

accommodations, supervision, and personal care services for one or two of the following unrelated persons:

(i) Persons of any age with mental illness ~~or persons with severe mental disabilities~~ who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;

~~(iii) Room and board to~~ (ii) Persons of any age with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.

(c) Room and board for five or more of the following unrelated persons:

(i) Adults with mental illness ~~or persons with severe mental disabilities~~ who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;

(ii) Adults with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.

~~The following are not residential facilities~~ (10) "Residential facility" does not include any of the following: ~~the residence of a relative or guardian of a mentally ill individual, a~~

(a) A hospital subject to licensure under section 5119.20 of the Revised Code~~, a~~;

(b) A residential facility ~~as defined in~~ licensed under section 5123.19 of the Revised Code~~, a facility providing care for a child in the custody of a public children services agency or a private agency certified under section 5103.03 of the Revised Code, a foster care facility~~ or otherwise regulated by the

department of developmental disabilities;

(c) An institution or association subject to certification under section 5103.03 of the Revised Code~~, an adult care facility subject to licensure under sections 5119.70 to 5119.88 of the Revised Code, and a~~;

(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(e) A nursing home, residential care facility, or home for the aging ~~subject to licensure under~~ as defined in section 3721.02 of the Revised Code;

(f) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;

(g) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(h) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

(11) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.

(12) "Supervision" means any of the following:

(a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities;

(b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities;

(c) Assisting a resident in making or keeping an appointment.

(13) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

~~(2)~~(B) Nothing in division (A)~~(1)(d)~~(9) of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance.

~~(3)~~(C) Except in the case of a residential facility described in division (A)~~(1)(d)(i)~~(9)(a) of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, ~~all medication taken by residents of a residential facility shall be self-administered, and no person shall be admitted to or retained by a residential facility unless the person is capable of taking the person's own medication and biologicals, as determined in writing by the person's personal physician. Members of the staff of a residential facility~~ but may do any of the following:

~~(a)~~(1) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

~~(b)~~(2) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this

section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

~~(c)~~(3) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

~~(B) Every~~ (D)(1) Except as provided in division (D)(2) of this section, a person operating or ~~desiring~~ seeking to operate a residential facility shall apply for licensure of the facility to the department of mental health ~~and~~. The application shall be submitted by the operator. When applying for the license, the applicant shall pay to the department the application fee specified in rules adopted under division (L) of this section. The fee is nonrefundable.

The department shall send a copy of ~~the~~ an application to the ADAMHS board ~~of alcohol, drug addiction, and mental health services whose service district includes~~ serving the county in which the person operates or ~~desires~~ seeks to operate ~~a residential~~ the facility. The ADAMHS board shall review ~~such applications and recommend approval or disapproval to the department. Each recommendation shall be consistent with the board's community mental health plan.~~

~~(C)~~ the application and provide to the department any information about the applicant or the facility that the board would like the department to consider in reviewing the application.

(2) A person may not apply for a license to operate a residential facility if the person is or has been the owner, operator, or manager of a residential facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met:

(a) A period of not less than two years has elapsed since the date the director of mental health issued the order revoking or refusing to renew the facility's license.

(b) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation.

(E)(1) Any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any residential district or zone, including any single-family residential district or zone of any political subdivision. Such facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(2) Any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit development districts as defined in section 519.021 of the Revised Code may exclude such facilities from such

districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(a) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(b) Require compliance with yard, parking, and sign regulation.

(3) Divisions (E)(1) and (2) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under this section in a single-family residential district or zone under conditions established by the political subdivision.

(4)(a) Notwithstanding divisions (E)(1) and (2) of this section and except as provided in division (E)(4)(b) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of this section.

(b) Division (E)(4)(a) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on the effective date of this section and that meet the criteria specified in division (A)(9)(b) of this section. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of this

section that are not existing and operating on the effective date of this section.

(F)(1) The department of mental health shall inspect and license the operation of residential facilities. The department shall consider the past record of the facility and the applicant or licensee in arriving at its licensure decision. ~~The~~

The department may issue full, probationary, and interim licenses. A full license shall expire two years after the date of issuance, a probationary license shall expire in a shorter period of time as ~~prescribed by rule~~ specified in rules adopted by the director of mental health ~~pursuant to Chapter 119. of the Revised Code~~ under division (L) of this section, and an interim license shall expire ninety days after the date of issuance. ~~The~~ A license may be renewed in accordance with rules adopted by the director under division (L) of this section. The renewal application shall be submitted by the operator. When applying for renewal of a license, the applicant shall pay to the department the renewal fee specified in rules adopted under division (L) of this section. The fee is nonrefundable.

(2) The department may issue an order suspending the admission of residents to the facility or refuse to issue or renew and may revoke a license if it finds the facility is not in compliance with rules adopted by the ~~department~~ director pursuant to division ~~(G)~~(L) of this section or if any facility operated by the applicant or licensee has ~~had~~ been cited for repeated violations of statutes or rules during the period of previous licenses. Proceedings initiated to deny applications for full or probationary licenses or to revoke such licenses are governed by Chapter 119. of the Revised Code.

~~(D)~~(G) The department may issue an interim license to operate a residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under ~~Chapter 119. of the Revised Code~~ division (L) of this section.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

~~(E)~~(H)(1) The department of mental health may conduct an inspection of a residential facility as follows:

~~(1)~~(a) Prior to ~~the~~ issuance of a license ~~to a prospective operator~~ for the facility;

~~(2)~~(b) Prior to ~~the~~ renewal of ~~any operator's~~ the license;

~~(3)~~(c) To determine whether ~~a~~ the facility has completed a plan of correction required pursuant to ~~this~~ division (H)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

~~(4)~~(d) Upon complaint by any individual or agency;

~~(5)~~(e) At any time the director considers an inspection to be necessary in order to determine whether ~~a residential~~ the facility is in compliance with this section and rules adopted pursuant to this section.

(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility~~,~~ and its personnel, activities, and services. The department shall

have access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

~~(F)~~(I) No person shall do any of the following:

(1) Operate a residential facility unless the facility holds a valid license;

(2) Violate any of the conditions of licensure after having been granted a license;

(3) Interfere with a state or local official's inspection or investigation of a residential facility;

(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.

~~(G)~~(J) The following may enter a residential facility at any time:

(1) Employees designated by the director of mental health;

(2) Employees of an ADAMHS board under either of the following circumstances:

(a) When a resident of the facility is receiving services from a community mental health agency under contract with that ADAMHS board or another ADAMHS board;

(b) When authorized by section 340.05 of the Revised Code.

(3) Employees of a community mental health agency under either of the following circumstances:

(a) When the agency has a client residing in the facility;

(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract.

(4) Representatives of the state long-term care ombudsperson program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are recipients under the residential state supplement program.

The persons specified in division (J) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.

(K) Employees of the department of mental health may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.

(L) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code~~, prescribing minimum~~ governing the licensing and operation of residential facilities. The rules shall establish all of the following:

(1) Minimum standards for the health, safety, adequacy, and cultural ~~specificity and sensitivity~~ competency of treatment of and services for persons in residential facilities; ~~establishing procedures~~

(2) Procedures for the issuance, renewal or revocation of the licenses of ~~such~~ residential facilities; ~~establishing the~~

(3) Procedures for conducting criminal records checks for prospective operators, staff, and other individuals who, if

employed by a residential facility, would have unsupervised access to facility residents;

(4) The fee to be paid when applying for a new residential facility license or renewing the license;

(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;

(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;

(7) Measures to be taken by residential facilities relative to residents' medication;

(8) Requirements relating to preparation of special diets;

(9) The maximum number of residents ~~of~~ who may be served in a residential facility; ~~establishing the~~

(10) The rights of residents of residential facilities and procedures to protect such rights; ~~and requiring~~

(11) Procedures for obtaining an affiliation agreement approved by the board between a residential facility and a community mental health agency~~. Such affiliation agreement must be consistent with the residential portion of the community mental health plan submitted pursuant to section 340.03 of the Revised Code~~;

(12) Standards and procedures under which the director may waive the requirements of any of the rules adopted.

~~(H) The department may investigate any facility that has been reported to the department or that the department has reasonable cause to believe is operating as a residential facility without a~~

~~valid license.~~

~~(I)~~(M)(1) The department may withhold the source of any complaint reported as a violation of this ~~act~~ section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.

~~(J)~~(2) Any person who makes a complaint under division (M)(1) of this section, or any person who participates in an administrative or judicial proceeding resulting from such a complaint, is immune from civil liability and is not subject to criminal prosecution, other than for perjury, unless the person has acted in bad faith or with malicious purpose.

(N)(1) The director of mental health may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a ~~real and~~ present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a ~~real and~~ present danger to the health or safety of any residents of the facility.

~~(K) Whoever violates division (F) of this section or any rule adopted under this section is liable for a civil penalty of one hundred dollars for the first offense; for each subsequent offense, such violator is liable for a civil penalty of five hundred dollars. If the violator does not pay, the attorney general, upon the request of the director of mental health, shall~~

~~bring a civil action to collect the penalty. Fines collected pursuant to this section shall be deposited into the state treasury to the credit of the mental health sale of goods and services fund.~~

(2) When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist with the safe and orderly relocation of the facility's residents.

(3) If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(O) The director may fine a person for violating division (I) of this section. The fine shall be five hundred dollars for a first offense; for each subsequent offense, the fine shall be one thousand dollars. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:

(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter 340.

and sections 5119.61 to 5119.63 of the Revised Code.

(1) The rules shall include ~~all of~~ the following:

(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division ~~(C)~~(D)(2) of section 5119.69 of the Revised Code;

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services ~~under section 5119.88 of the Revised Code~~ regarding referrals of individuals with mental illness or severe mental disability to ~~adult care~~ residential facilities as defined in division (A)(9)(b) of section 5119.22 of the Revised Code and effective arrangements for ongoing mental health services for the individuals. ~~The rules shall do at least the following:~~

~~(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A) of section 5119.88 of the Revised Code;~~

~~(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.~~

~~(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of mental health under section 5119.87 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability~~.

(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023

of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;

(D) At the director's discretion, provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

(E) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality,

effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

(F) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services, develop and operate, or contract for the operation of, a community mental health information system or systems.

Boards of alcohol, drug ~~abuse~~ addiction, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division (F)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

(G) Review each board's community mental health plan submitted pursuant to section 340.03 of the Revised Code and approve or disapprove it in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of

the dispute. The director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.69. (A) As used in this section and section 5119.691 of the Revised Code:

(1) "Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

(2) "Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

(3) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(4) "Residential state supplement administrative agency" means the department of mental health or, if the department designates an entity under division (C) of this section for a particular area, the designated entity.

(5) "Residential state supplement program" means the program administered pursuant to this section.

(B) The department of mental health shall implement the residential state supplement program under which the state supplements the supplemental security income payments received by aged, blind, or disabled adults under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. Residential state supplement payments shall be used for the provision of accommodations, supervision, and personal care services to supplemental security income recipients who the department determines are at risk of needing institutional care.

~~(B)~~(C) In implementing the program, the department may designate one or more entities to be responsible for providing administrative services regarding the program. The department may designate an entity to be a residential state supplement administrative agency under this division either by entering into a contract with the entity to serve in that capacity or by otherwise delegating to the entity the responsibility to serve in that capacity.

~~(C)~~(D) For an individual to be eligible for residential state supplement payments, all of the following must be the case:

(1) Except as provided by division ~~(G)~~(H) of this section, the individual must reside in one of the following:

(a) ~~An adult foster home certified under section 5119.692 of the Revised Code;~~

~~(b)~~ A home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed by the department of health under Chapter 3721. of the Revised Code ~~or the department of mental health under sections 5119.70 to 5119.88 of the Revised Code~~;

~~(c)~~(b) A residential facility as defined in division (A)~~(1)(d)(ii)~~(9)(b) of section 5119.22 of the Revised Code licensed by the department of mental health;

~~(d)~~(c) An apartment or room used to provide community mental health housing services certified by the department of mental health under section 5119.611 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)(14) of section 340.03 of the Revised Code.

(2) A residential state supplement administrative agency must have determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. If the individual is eligible for supplemental

security income payments or social security disability insurance benefits because of a mental disability, the residential state supplement administrative agency shall refer the individual to a community mental health agency for ~~the community mental health agency to issue in accordance with~~ an assessment under division (A) of section 340.091 of the Revised Code ~~a recommendation on whether the residential state supplement administrative agency should determine that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs~~.

(3) The individual satisfies all eligibility requirements established by rules adopted under division ~~(D)~~(E) of this section.

~~(D)~~(E) The directors of mental health and job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement the residential state supplement program.

To the extent permitted by Title XVI of the "Social Security Act," and any other provision of federal law, the director of job and family services may adopt rules establishing standards for adjusting the eligibility requirements concerning the level of impairment a person must have so that the amount appropriated for the program by the general assembly is adequate for the number of eligible individuals. The rules shall not limit the eligibility of disabled persons solely on a basis classifying disabilities as physical or mental. The director of job and family services also may adopt rules that establish eligibility standards for aged, blind, or disabled individuals who reside in one of the homes or facilities specified in division ~~(C)~~(D)(1) of this section but who, because of their income, do not receive supplemental security income payments. The rules may provide that these individuals may include individuals who receive other types of benefits,

including, social security disability insurance benefits provided under Title II of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401, as amended. Notwithstanding division ~~(A)~~(B) of this section, such payments may be made if funds are available for them.

The director of mental health may adopt rules establishing the method to be used to determine the amount an eligible individual will receive under the program. The amount the general assembly appropriates for the program may be a factor included in the method that director establishes.

~~(E)~~(F) The county department of job and family services of the county in which an applicant for the residential state supplement program resides shall determine whether the applicant meets income and resource requirements for the program.

~~(F)~~(G) The department of mental health shall maintain a waiting list of any individuals eligible for payments under this section but not receiving them because moneys appropriated to the department for the purposes of this section are insufficient to make payments to all eligible individuals. An individual may apply to be placed on the waiting list even though the individual does not reside in one of the homes or facilities specified in division ~~(C)~~(D)(1) of this section at the time of application. The director of mental health, by rules adopted in accordance with Chapter 119. of the Revised Code, may specify procedures and requirements for placing an individual on the waiting list and priorities for the order in which individuals placed on the waiting list are to begin to receive residential state supplement payments. The rules specifying priorities may give priority to individuals placed on the waiting list on or after July 1, 2006, who receive supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as amended. The rules shall not affect the place on the waiting list

of any person who was on the list on July 1, 2006. The rules specifying priorities may also set additional priorities based on living arrangement, such as whether an individual resides in a facility listed in division ~~(C)~~(D)(1) of this section or has been admitted to a nursing facility.

~~(G)~~(H) An individual in a licensed or certified living arrangement receiving state supplementation on November 15, 1990, under former section 5101.531 of the Revised Code shall not become ineligible for payments under this section solely by reason of the individual's living arrangement as long as the individual remains in the living arrangement in which the individual resided on November 15, 1990.

~~(H)~~(I) The department of mental health shall notify each person denied approval for payments under this section of the person's right to a hearing. On request, the hearing shall be provided in accordance with Chapter 119. of the Revised Code.

Sec. 5119.691. ~~(A) As used in this section:~~

~~"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.~~

~~"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.~~

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~"Residential state supplement administrative agency" means an entity designated as such by the department of mental health under section 5119.69 of the Revised Code.~~

~~"Residential state supplement program" means the program administered pursuant to section 5119.69 of the Revised Code.~~

~~(B)~~ On a periodic schedule determined by the department of mental health, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the agency serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. If a residential state supplement administrative agency determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. If the administrator determines that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, the administrator shall so notify the department of mental health. On receipt of the notice from the administrator, the department of mental health shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division ~~(F)~~(G) of section 5119.69 of the Revised Code. Each quarter, the department of mental health shall certify to the director of budget and management the estimated increase in costs of the residential state supplement program resulting from enrollment of individuals in the program pursuant to this section.

Sec. 5119.99. ~~(A)~~ Whoever violates section 5119.21 of the Revised Code is guilty of a misdemeanor of the first degree.

~~(B) Whoever violates division (A)(1) of section 5119.86 of the Revised Code shall be fined two thousand dollars for a first offense; for each subsequent offense, such person shall be fined five thousand dollars.~~

~~(C) Whoever violates division (C) of section 5119.81 or division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) of section 5119.86 of the Revised Code shall be fined five hundred dollars for a first offense; for each subsequent offense, such person shall be fined one thousand dollars.~~

Sec. 5120.036. (A) The department of rehabilitation and correction shall provide risk reduction programming and treatment for inmates whom a court under section 2929.143 of the Revised Code recommends serve a risk reduction sentence and who meet the eligibility criteria described in division (B) of this section.

(B) If an offender is sentenced to a term of imprisonment in a state correctional institution and the sentencing court recommended that the offender serve a risk reduction sentence, the department of rehabilitation and correction shall conduct a validated and objective assessment of the person's needs and risk of reoffending. If the offender cooperates with the risk assessment and agrees to participate in any programming or treatment ordered by the department, the department shall provide programming and treatment to the offender to address the risks and needs identified in the assessment.

(C) If the department determines that an offender serving a term of incarceration for whom the sentencing court recommended a risk reduction sentence under section 2929.143 of the Revised Code has successfully completed the assessment and treatment or programming required by the department under division (B) of this section, the department shall release the offender to ~~supervised release~~ post-release control under one or more post-release

control sanctions after the offender has served each mandatory prison term to which the offender was sentenced, if any, and a minimum of eighty per cent of the aggregated nonmandatory prison terms to which the offender was sentenced. The placement under post-release control sanctions shall be under terms set by the parole board in accordance with section 2967.28 of the Revised Code and shall be subject to the provisions of that section and sections 2929.141 and 2967.15 of the Revised Code regarding violation of post-release control sanctions. No mandatory prison term shall be reduced by, or as a result of, an offender's service of a risk reduction sentence. The department shall notify the sentencing court that the offender has successfully completed the terms of the risk reduction sentence at least thirty days prior to the date upon which the offender is to be released.

(D) As used in this section:

(1) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Nonmandatory prison term" means a prison term that is not a mandatory prison term.

(3) "Post-release control" and "post-release control sanction" have the same meanings as in section 2967.01 of the Revised Code.

Sec. 5120.105. (A) The ~~department of administrative services~~ Ohio facilities construction commission shall provide for the construction of a halfway house facility in conformity with Chapter 153. of the Revised Code, except that construction services may be provided by the department of rehabilitation and correction.

(B) The director of rehabilitation and correction may enter into an agreement with a halfway house organization for the

management of a halfway house facility. The halfway house organization that occupies, will occupy, or is responsible for the management of a halfway house facility shall pay the costs of management of and general building services for the halfway house facility as provided in an agreement between the department of rehabilitation and correction and the halfway house organization.

(C) No state funds, including state bond proceeds, shall be spent on the construction of a halfway house facility under sections 5120.102 to 5120.105 of the Revised Code, unless the general assembly has specifically authorized the spending of money on, or has made an appropriation to the department of rehabilitation and correction for, the construction of the halfway house facility or rental payments relating to the financing of the construction of that facility. An authorization to spend money or an appropriation for planning a halfway house facility does not constitute an authorization to spend money on, or an appropriation for, the construction of that facility. Capital funds for the construction of halfway house facilities under sections 5120.102 to 5120.105 of the Revised Code shall be paid from the adult correctional building fund created in division (F) of section 154.24 of the Revised Code.

Sec. 5120.132. (A) There is hereby created in the state treasury the prisoner programs fund. The director of rehabilitation and correction shall deposit in the fund all moneys received by the department from commissions on telephone systems ~~established for the use of prisoners~~ and services provided to prisoners in relation to electronic mail, prisoner trust fund deposits, and the purchase of music, digital music players, and other electronic devices. The money in the fund shall be used only to pay for the costs of the following:

(1) The purchase of material, supplies, and equipment used in

any library program, educational program, religious program, recreational program, or pre-release program operated by the department for the benefit of prisoners;

(2) The construction, alteration, repair, or reconstruction of buildings and structures owned by the department for use in any library program, educational program, religious program, recreational program, or pre-release program operated by the department for the benefit of prisoners;

(3) The payment of salary, wages, and other compensation to employees of the department who are employed in any library program, educational program, religious program, recreational program, or pre-release program operated by the department for the benefit of prisoners;

(4) The compensation to vendors that contract with the department for the provision of services for the benefit of prisoners in any library program, educational program, religious program, recreational program, or pre-release program operated by the department;

(5) The payment of prisoner release payments in an appropriate amount as determined pursuant to rule;

(6) The purchase of other goods and the payment of other services that are determined, in the discretion of the director, to be goods and services that may provide additional benefit to prisoners.

(B) The director shall establish rules for the operation of the prisoner programs fund.

Sec. 5120.66. (A) Within ninety days after November 23, 2005, but not before January 1, 2006, the department of rehabilitation and correction shall establish and operate on the internet a database that contains all of the following:

(1) For each inmate in the custody of the department under a sentence imposed for a conviction of or plea of guilty to any offense, all of the following information:

(a) The inmate's name;

(b) For each offense for which the inmate was sentenced to a prison term or term of imprisonment and is in the department's custody, the name of the offense, the Revised Code section of which the offense is a violation, the gender of each victim of the offense if those facts are known, whether each victim of the offense was an adult or child if those facts are known, the range of the possible prison terms or term of imprisonment that could have been imposed for the offense, the actual prison term or term of imprisonment imposed for the offense, the county in which the offense was committed, the date on which the inmate began serving the prison term or term of imprisonment imposed for the offense, and either the date on which the inmate will be eligible for parole relative to the offense if the prison term or term of imprisonment is an indefinite term or life term or the date on which the term ends if the prison term is a definite term;

(c) All of the following information that is applicable regarding the inmate:

(i) If known to the department prior to the conduct of any hearing for judicial release of the defendant pursuant to section 2929.20 of the Revised Code in relation to any prison term or term of imprisonment the inmate is serving for any offense or any hearing for release of the defendant pursuant to section 2967.19 of the Revised Code in relation to any such term, notice of the fact that the inmate will be having a hearing regarding a possible grant of judicial release or release, the date of the hearing, and the right of any person pursuant to division (J) of section 2929.20 or division (H) of section 2967.19 of the Revised Code, whichever is applicable, to submit to the court a written

statement regarding the possible judicial release or release. The department also shall post notice of the ~~filing~~ submission to a sentencing court of any ~~petition~~ recommendation for early release of the inmate pursuant to section 2967.19 of the Revised Code, as required by division (E) of that section.

(ii) If the inmate is serving a prison term pursuant to division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code, prior to the conduct of any hearing pursuant to section 2971.05 of the Revised Code to determine whether to modify the requirement that the inmate serve the entire prison term in a state correctional facility in accordance with division (C) of that section, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term in accordance with division (D) of that section, notice of the fact that the inmate will be having a hearing regarding those determinations and of the date of the hearing;

(iii) At least three weeks before the adult parole authority recommends a pardon or commutation of sentence for the inmate or at least three weeks prior to a hearing before the adult parole authority regarding a grant of parole to the inmate in relation to any prison term or term of imprisonment the inmate is serving for any offense, notice of the fact that the inmate might be under consideration for a pardon or commutation of sentence or will be having a hearing regarding a possible grant of parole, of the date of any hearing regarding a possible grant of parole, and of the right of any person to submit a written statement regarding the pending action;

(iv) At least three weeks before the inmate is transferred to transitional control under section 2967.26 of the Revised Code in relation to any prison term or term of imprisonment the inmate is serving for any offense, notice of the pendency of the transfer,

of the date of the possible transfer, and of the right of any person to submit a statement regarding the possible transfer;

(v) Prompt notice of the inmate's escape from any facility in which the inmate was incarcerated and of the capture of the inmate after an escape;

(vi) Notice of the inmate's death while in confinement;

(vii) Prior to the release of the inmate from confinement, notice of the fact that the inmate will be released, of the date of the release, and, if applicable, of the standard terms and conditions of the release;

(viii) Notice of the inmate's judicial release pursuant to section 2929.20 of the Revised Code or release pursuant to section 2967.19 of the Revised Code.

(2) Information as to where a person can send written statements of the types referred to in divisions (A)(1)(c)(i), (iii), and (iv) of this section.

(B)(1) The department shall update the database required under division (A) of this section every twenty-four hours to ensure that the information it contains is accurate and current.

(2) The database required under division (A) of this section is a public record open for inspection under section 149.43 of the Revised Code. The department shall make the database searchable by inmate name and by the county and zip code where the offender intends to reside after release from a state correctional institution if this information is known to the department.

(3) The database required under division (A) of this section may contain information regarding inmates who are listed in the database in addition to the information described in that division.

(4) No information included on the database required under

division (A) of this section shall identify or enable the identification of any victim of any offense committed by an inmate.

(C) The failure of the department to comply with the requirements of division (A) or (B) of this section does not give any rights or any grounds for appeal or post-conviction relief to any inmate.

(D) This section, and the related provisions of sections 2929.20, 2967.03, 2967.12, and 2967.26 of the Revised Code enacted in the act in which this section was enacted, shall be known as "Laura's Law."

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for

processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department, other institutions and facilities within the department, hospitals licensed by the department under section 5119.20 of the Revised Code, and community mental health agencies may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient;

(8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would

be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health agencies may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other agencies in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

(13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health agencies to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. ~~The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure.~~ The release of records under this division is limited to records regarding an inmate's or offender's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), ~~(7),~~ and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary

medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a sequence of observations and examinations, of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of persons with mental retardation or a developmental disability, which group shall include individuals who are professionally qualified in the fields of medicine, psychology, and social work, together with such other specialists as the individual case may require.

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of

the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

(F) "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

(G) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code provided under the medicaid waiver components the department of developmental disabilities administers pursuant to section 5111.871 of the Revised Code. ~~However~~ Except as provided in section 5123.0412 of the Revised Code, home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community-based services for the purposes of this chapter only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

(H) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

(I) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded.

(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

(K) "Managing officer" means a person who is appointed by the director of developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant

habilitation in an institution.

(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(Q) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the

person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(R) "Developmentally disabled person" means a person with a developmental disability.

(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or

home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court, other adult having permanent custody awarded by a court, or guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have the legal settlement of her husband and, in the case of death of her husband or divorce, she shall not thereby lose her legal settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(U)(1) "Resident" means, subject to division (R)(2) of this section, a person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to

section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(W) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Y) "Court" means the probate division of the court of common pleas.

(Z) "Supported living" and "residential services" have the same meanings as in section 5126.01 of the Revised Code.

Sec. 5123.033. The program fee fund is hereby created in the state treasury. All fees collected pursuant to sections 5123.161, 5123.164, and 5123.19~~, and 5126.25~~ of the Revised Code shall be

credited to the fund. Money credited to the fund shall be used solely for the department of developmental disabilities' duties under sections 5123.16 to ~~5123.169~~ 5123.1610, and 5123.19~~, and 5126.25~~ of the Revised Code and to provide continuing education and professional training to ~~employees of county boards of developmental disabilities for the purpose of section 5126.25 of the Revised Code and other~~ providers of services to individuals with mental retardation or a developmental disability. If the money credited to the fund is inadequate to pay all of the department's costs in performing those duties and providing the continuing education and professional training, the department may use other available funds appropriated to the department to pay the remaining costs of performing those duties and providing the continuing education and professional training.

Sec. 5123.042. ~~(A) The~~ Except as provided in section 5123.197 of the Revised Code, each person or government entity seeking to develop new or modify existing residential services shall submit to the department of developmental disabilities a plan for the development or modification. The department shall approve a plan that is submitted in accordance with rules adopted under this section and meets the uniform standards for plans established in those rules.

The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the following:

~~(1)~~(A) Procedures for submitting plans under this section;

(B) Uniform standards ~~under which:~~

~~(a) A person or agency shall submit plans to the county board of developmental disabilities for the development of residential services for individuals with mental retardation or a developmental disability within the county;~~

~~(b) The county board must review the plans and recommend providers for the services~~ for the plans.

~~(2) The eligibility criteria for selecting persons and agencies to provide residential services, which shall take into consideration the recommendations of the county board.~~

~~(B) The county board, in accordance with its comprehensive service plan, shall review all proposals for the development of residential services that are submitted to it and shall, if the proposals are acceptable to the county board, recommend providers for the development of residential services within the county. The department shall approve proposals for the development of residential services within counties based upon the availability of funds and in accordance with rules adopted under division (A)(2) of this section.~~

~~No county board shall recommend providers for the development of residential services if the county board is an applicant to provide services. In cases of possible conflict of interest, the director shall appoint a committee that shall, in accordance with the approved county comprehensive service plan, review and recommend to the director providers for the services.~~

~~If a county board fails to establish an approved comprehensive service plan, the director may establish residential services development goals for the county board based on documented need as determined by the department. If a county board fails to develop or implement such a plan in accordance with the rules adopted under this section, the department may, without the involvement of the county board, review and select providers for the development of residential services in the county.~~

Sec. 5123.044. The department of developmental disabilities shall determine whether county boards of developmental disabilities ~~are in compliance with~~ violate the rights that

individuals with mental retardation or other developmental disabilities have under section 5126.046 of the Revised Code to obtain home and community-based services, nonmedicaid residential services, or nonmedicaid supported living from qualified and willing providers. The department shall provide assistance to an individual with mental retardation or other developmental disability who requests assistance with the individual's ~~right~~ rights under that section ~~5126.046 of the Revised Code to choose a provider of habilitation, vocational, community employment, residential, or supported living services~~ if the department is notified of a county board's alleged violation of the individual's ~~right to choose such a provider~~ rights under that section.

Sec. 5123.0412. (A) The department of developmental disabilities shall charge each county board of developmental disabilities an annual fee equal to one and one-quarter per cent of the total value of all medicaid paid claims for home and community-based services provided during the year to an individual eligible for services from the county board. However, the department shall not charge the fee for home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver. No county board shall pass the cost of a fee charged to the county board under this section on to another provider of these services.

(B) The fees collected under this section shall be deposited into the ODDD administration and oversight fund and the ODJFS administration and oversight fund, both of which are hereby created in the state treasury. The portion of the fees to be deposited into the ODDD administration and oversight fund and the portion of the fees to be deposited into the ODJFS administration and oversight fund shall be the portion specified in an interagency agreement entered into under division (C) of this section. The department of developmental disabilities shall use

the money in the ODDD administration and oversight fund and the department of job and family services shall use the money in the ODJFS administration and oversight fund for both of the following purposes:

(1) Medicaid administrative costs, including administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs of medicaid case management services and home and community-based services shall include costs for staff, systems, and other resources the departments need and dedicate solely to the following duties associated with the services:

(a) Eligibility determinations;

(b) Training;

(c) Fiscal management;

(d) Claims processing;

(e) Quality assurance oversight;

(f) Other duties the departments identify.

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.

(C) The departments of developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:

(1) Specify which portion of the fees collected under this section is to be deposited into the ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund.

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.0414. (A) When the director of developmental disabilities, under section 119.07 of the Revised Code, sends a party a notice by registered mail, return receipt requested, that the director intends to take action against the party authorized by section ~~5123.082,~~ 5123.166, 5123.168, 5123.19, 5123.45, 5123.51, or 5126.25 of the Revised Code and the notice is returned to the director with an endorsement indicating that the notice was refused or unclaimed, the director shall resend the notice by ordinary mail to the party.

(B) If the original notice was refused, the notice shall be deemed received as of the date the director resends the notice.

(C) If the original notice was unclaimed, the notice shall be deemed received as of the date the director resends the notice unless, not later than thirty days after the date the director sent the original notice, the resent notice is returned to the director for failure of delivery.

If the notice concerns taking action under section 5123.51 of the Revised Code and the resent notice is returned to the director for failure of delivery not later than thirty days after the date the director sent the original notice, the director shall cause the notice to be published in a newspaper of general circulation in the county of the party's last known residence or business and shall mail a dated copy of the published notice to the party at the last known address. The notice shall be deemed received as of the date of the publication.

If the notice concerns taking action under section ~~5123.082,~~

5123.166, 5123.168, 5123.19, 5123.45, or 5126.25 of the Revised Code and the resent notice is returned to the director for failure of delivery not later than thirty days after the date the director sent the original notice, the director shall resend the notice to the party a second time. The notice shall be deemed received as of the date the director resends the notice the second time.

Sec. 5123.0415. ~~As used in this section, "license" means a license, certificate, or evidence of registration.~~

Each person and each government entity that applies for or holds a valid license, certification, or registration issued under section ~~5123.082,~~ 5123.161, 5123.19, 5123.45, or 5126.25~~, or 5126.252~~ of the Revised Code shall notify the director of developmental disabilities of any change in the ~~person~~ person's or government entity's address.

Sec. 5123.081. (A) As used in this section:

(1)(a) "Applicant" means ~~a~~ any of the following:

(i) A person who is under final consideration for appointment to or employment with the department of developmental disabilities~~, including, but not limited to, a~~ or a county board of developmental disabilities;

(ii) A person who is being transferred to the department ~~and an~~ or a county board;

(iii) An employee who is being recalled to or reemployed by the department or a county board after a layoff;

(iv) A person under final consideration for a direct services position with a provider or subcontractor.

(b) Neither of the following is an applicant:

(i) A person who is employed by a responsible entity in a position for which a criminal records check is required by this

section and either is being considered for a different position with the responsible entity or is returning after a leave of absence or seasonal break in employment, unless the responsible entity has reason to believe that the person has committed a disqualifying offense;

(ii) A person who is to provide only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with mental retardation or a developmental disability who is to receive the respite care selects the person.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals with mental retardation or a developmental disability.

(4) "Disqualifying offense" means any of the following:

(a) One or more violations of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12,

2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) One or more violations of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(c) One or more violations of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date;

(d) One violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(e) Two or more violations of section 2925.11 of the Revised Code, regardless of whether any of the violations are a minor drug possession offense;

(f) One or more violations of felonious sexual penetration under former section 2907.12 of the Revised Code;

(g) One or more violations of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(4)(a) to (f) of this section;

(h) One or more felonies contained in the Revised Code that are not listed in divisions (A)(4)(a) to (g) of this section, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled;

(i) One or more offenses contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided by the responsible

entity;

(j) One or more violations of an existing or former municipal ordinance or law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses listed or described in divisions (A)(4)(a) to (i) of this section.

(5)(a) "Employee" means either of the following:

(i) A person appointed to or employed by the department of developmental disabilities or a county board of developmental disabilities;

(ii) A person employed in a direct services position by a provider or subcontractor.

(b) "Employee" does not mean a person who provides only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with mental retardation or a developmental disability who receives the respite care selected the person.

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

(7) "Provider" means a person that provides specialized services to individuals with mental retardation or a developmental disability and employs one or more persons in direct services positions.

(8) "Responsible entity" means the following:

(a) The department of developmental disabilities in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the department, being transferred to the department, or being recalled to or reemployed by the department after a layoff;

(ii) A person who is an employee because the person is appointed to or employed by the department.

(b) A county board of developmental disabilities in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the county board, being transferred to the county board, or being recalled to or reemployed by the county board after a layoff;

(ii) A person who is an employee because the person is appointed to or employed by the county board.

(c) A provider in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for a direct services position with the provider;

(ii) A person who is an employee because the person is employed in a direct services position by the provider.

(d) A subcontractor in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor;

(ii) A person who is an employee because the person is employed in a direct services position by the subcontractor.

(9) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by the department of developmental disabilities. If there is a question as to whether a provider or subcontractor is providing specialized services, the provider or subcontractor may request that the director of developmental disabilities make a determination. The

director's determination is final.

(10) "Subcontractor" means a person to which both of the following apply:

(a) The person has either of the following:

(i) A subcontract with a provider to provide specialized services included in the contract between the provider and the department of developmental disabilities or a county board of developmental disabilities;

(ii) A subcontract with another subcontractor to provide specialized services included in a subcontract between the other subcontractor and a provider or other subcontractor.

(b) The person employs one or more persons in direct services positions.

(B) ~~The director of developmental disabilities~~ A responsible entity shall not employ an applicant or continue to employ an employee if either of the following applies:

(1) The applicant or employee fails to comply with division (D)(3) of this section.

(2) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) Before employing an applicant in a position for which a criminal records check is required by this section, a responsible entity shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. The responsible entity also shall require the applicant to sign an

agreement under which the applicant agrees to notify the responsible entity within fourteen calendar days if, while employed by the responsible entity, the applicant is formally charged with, is convicted of, pleads guilty to, or is found eligible for intervention in lieu of conviction for a disqualifying offense. The agreement shall provide that the applicant's failure to provide the notification may result in termination of the applicant's employment.

(D)(1) As a condition of employing any applicant in a position for which a criminal records check is required by this section, a responsible entity shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check ~~with respect to each applicant, except that the director is not required to request a criminal records check for an employee of the department who is being considered for a different position or is returning after a leave of absence or seasonal break in employment, as long as the director has no reason to believe that the employee has committed any of the offenses listed or described in division (E) of this section.~~

~~If the~~ of the applicant. If rules adopted under this section require an employee to undergo a criminal records check, a responsible entity shall request the superintendent to conduct a criminal records check of the employee at times specified in the rules as a condition of the responsible entity's continuing to employ the employee in a position for which a criminal records check is required by this section. If an applicant or employee does not present proof that the applicant or employee has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested, the ~~director~~ responsible entity shall request that the superintendent ~~of the bureau~~ obtain information from the federal bureau of investigation as a part of the criminal records check

~~for the applicant~~. If the applicant or employee presents proof that the applicant or employee has been a resident of this state for that five-year period, the ~~director~~ responsible entity may request that the superintendent ~~of the bureau~~ include information from the federal bureau of investigation in the criminal records check. For purposes of this division, an applicant or employee may provide proof of residency in this state by presenting, with a notarized statement asserting that the applicant or employee has been a resident of this state for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the applicant's or employee's permanent residence, or any other document the ~~director~~ responsible entity considers acceptable.

~~(C) The director~~ (2) A responsible entity shall ~~provide~~ do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code~~, provide to each applicant~~ and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code~~, obtain~~;

(b) Obtain the completed form and standard impression sheet from ~~each~~ the applicant~~, and forward~~ or employee;

(c) Forward the completed form and standard impression sheet to the superintendent ~~of the bureau of criminal identification and investigation~~ at the time the criminal records check is requested.

(3) Any applicant or employee who receives pursuant to this division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of ~~an~~ the standard impression sheet prescribed pursuant to division (C)(2)

of that section and who is requested to complete the form and provide a set of the applicant's or employee's fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the ~~material~~ standard impression sheet with the impressions of the applicant's or employee's fingerprints. ~~If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the director shall not employ the applicant.~~

~~(D) The director~~ (4) A responsible entity shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check requested and conducted pursuant to this section.

(E) A responsible entity may request any other state or federal agency to supply the ~~director~~ responsible entity with a written report regarding the criminal record of ~~each~~ an applicant or employee. ~~With regard to an applicant who becomes a department employee, if the~~ If an employee holds an occupational or professional license or other credentials, the ~~director~~ responsible entity may request that the state or federal agency that regulates the employee's occupation or profession supply the ~~director~~ responsible entity with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials. The responsible entity may consider the reports when determining whether to employ the applicant or to continue to employ the employee.

~~(E) Except as provided in division (K)(2) of this section and in rules adopted by the director in accordance with division (M) of this section, the director shall not employ a person to fill a~~

~~position with the department who has been convicted of or pleaded guilty to any of the following:~~

~~(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;~~

~~(2) A felony contained in the Revised Code that is not listed in this division, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled;~~

~~(3) Any offense contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided by the department;~~

~~(4) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses listed or described in division (E)(1), (2), or (3) of this section.~~

(F) ~~Prior to employing an applicant, the director shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section. The director also shall require the applicant to sign an agreement under which the applicant agrees to notify the director within fourteen calendar days if, while employed with the department, the applicant is ever formally charged with, convicted of, or pleads guilty to any of the offenses listed or described in division (E) of this section. The agreement shall inform the applicant that failure to report formal charges, a conviction, or a guilty plea may result in being dismissed from employment.~~ As a condition of employing an applicant in a position for which a criminal records check is required by this section and that involves transporting individuals with mental retardation or developmental disabilities or operating a responsible entity's vehicles for any purpose, the responsible entity shall obtain the applicant's driving record from the bureau of motor vehicles. If rules adopted under this section require a responsible entity to obtain an employee's driving record, the responsible entity shall obtain the employee's driving record from the bureau at times specified in the rules as a condition of continuing to employ the employee. The responsible entity may consider the applicant's or employee's driving record when determining whether to employ the applicant or to continue to employ the employee.

(G) ~~The director shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check requested and conducted pursuant to this section.~~ A responsible entity may employ an applicant conditionally pending receipt of a report regarding the applicant requested under this section. The responsible entity shall

terminate the applicant's employment if it is determined from a report that the applicant failed to inform the responsible entity that the applicant had been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(H) A responsible entity may charge an applicant a fee for costs the responsible entity incurs in obtaining a report regarding the applicant under this section if the responsible entity notifies the applicant of the amount of the fee at the time of the applicant's initial application for employment and that, unless the fee is paid, the responsible entity will not consider the applicant for employment. The fee shall not exceed the amount of the fee, if any, the responsible entity pays for the report.

(I)(1) Any report obtained pursuant to this section is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, other than the following:

(a) The applicant or employee who is the subject of the ~~records check or criminal records check~~ report or the applicant's or employee's representative~~, the department;~~

(b) The responsible entity that requested the report or its representative~~, a county board of developmental disabilities, and any;~~

(c) The department if a county board, provider, or subcontractor is the responsible entity that requested the report and the department requests the responsible entity to provide a copy of the report to the department;

(d) A county board if a provider or subcontractor is the responsible entity that requested the report and the county board requests the responsible entity to provide a copy of the report to the county board;

(e) Any court, hearing officer, or other necessary individual involved in a case dealing with ~~the~~ any of the following:

(i) The denial of employment to the applicant or ~~the~~ employee;

(ii) The denial, suspension, or revocation of a certificate ~~or evidence of registration~~ under section ~~5123.082~~ 5123.166 or 5123.45 of the Revised Code;

(iii) A civil or criminal action regarding the medicaid program or a program the department administers.

(2) An ~~individual~~ applicant or employee for whom ~~the director~~ responsible entity has obtained reports under this section may submit a written request to the ~~director~~ responsible entity to have copies of the reports sent to any state agency, entity of local government, or private entity. The ~~individual~~ applicant or employee shall specify in the request the agencies or entities to which the copies are to be sent. On receiving the request, the ~~director~~ responsible entity shall send copies of the reports to the agencies or entities specified.

~~The director~~ (3) A responsible entity may request that a state agency, entity of local government, or private entity send copies to the ~~director~~ responsible entity of any report regarding a records check or criminal records check that the agency or entity possesses, if the ~~director~~ responsible entity obtains the written consent of the individual who is the subject of the report.

~~(I) The director shall request the registrar of motor vehicles to supply the director with a certified abstract regarding the record of convictions for violations of motor vehicle laws of each applicant who will be required by the applicant's employment to transport individuals with mental retardation or a developmental disability or to operate the~~

~~department's vehicles for any other purpose. For each abstract provided under this section, the director shall pay the amount specified in section 4509.05 of the Revised Code.~~

~~(J) The director~~ (4) A responsible entity shall provide each applicant and employee with a copy of any report ~~or abstract~~ obtained about the applicant or employee under this section.

~~(K)(1) The director shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for employment as a precondition to employment in a position.~~

~~(2) The director may employ an applicant pending receipt of reports requested under this section. The director shall terminate employment of any such applicant if it is determined from the reports that the applicant failed to inform the director that the applicant had been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section.~~

~~(L) The director may charge an applicant a fee for costs the director incurs in obtaining reports, abstracts, or fingerprint impressions under this section. A fee charged under this division shall not exceed the amount of the fees the director pays under divisions (G) and (I) of this section. If a fee is charged under this division, the director shall notify the applicant of the amount of the fee at the time of the applicant's initial application for employment and that, unless the fee is paid, the director will not consider the applicant for employment.~~

~~(M)~~(J) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to

implement this section~~, including rules specifying~~.

(1) The rules may do the following:

(a) Require employees to undergo criminal records checks under this section;

(b) Require responsible entities to obtain the driving records of employees under this section;

(c) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, exempt one or more classes of employees from the requirements.

(2) The rules shall do both of the following:

(a) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, specify the times at which the criminal records checks are to be conducted and the driving records are to be obtained;

(b) Specify circumstances under which ~~the director~~ a responsible entity may employ ~~a person who has~~ an applicant or employee who is found by a criminal records check required by this section to have been convicted of ~~or~~, pleaded guilty to ~~an~~, or been found eligible for intervention in lieu of conviction for a disqualifying offense ~~listed or described in division (E) of this section~~ but ~~who~~ meets standards in regard to rehabilitation set by the director.

Sec. 5123.16. (A) As used in sections 5123.16 to ~~5123.169~~ 5123.1610 of the Revised Code:

(1) "Applicant" means any of the following:

(a) The chief executive officer of a business that applies under section 5123.161 of the Revised Code for a certificate to

provide supported living;

(b) The chief executive officer of a business that seeks renewal of the business's supported living certificate under section 5123.164 of the Revised Code;

(c) An individual who applies under section 5123.161 of the Revised Code for a certificate to provide supported living as an independent provider;

(d) An independent provider who seeks renewal of the independent provider's supported living certificate under section 5123.164 of the Revised Code.

(2)(a) "Business" means either of the following:

(i) An association, corporation, nonprofit organization, partnership, trust, or other group of persons;

(ii) An individual who employs, directly or through contract, one or more other individuals to provide supported living.

(b) "Business" does not mean an independent provider.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(4) "Disqualifying offense" means any of the following:

(a) One or more violations of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51,

2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) One or more violations of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(c) One or more violations of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date;

(d) One violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(e) Two or more violations of section 2925.11 of the Revised Code, regardless of whether any of the violations are a minor drug possession offense;

(f) One or more violations of felonious sexual penetration under former section 2907.12 of the Revised Code;

(g) One or more violations of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(4)(a) to (f) of this section;

(h) One or more felonies contained in the Revised Code that are not listed in divisions (A)(4)(a) to (g) of this section, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled;

(i) One or more offenses contained in the Revised Code constituting a misdemeanor of the first degree on the first

offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided by the responsible entity;

(j) One or more violations of an existing or former municipal ordinance or law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses listed or described in divisions (A)(4)(a) to (i) of this section.

(5) "Independent provider" means a provider who provides supported living on a self-employed basis and does not employ, directly or through contract, another individual to provide the supported living.

(6) "Provider" means a person or government entity certified by the director of developmental disabilities to provide supported living.

~~(2)~~(7) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(8) "Related party" means any of the following:

(a) In the case of a provider who is an individual, any of the following:

(i) The spouse of the provider;

(ii) A parent or stepparent of the provider or provider's spouse;

(iii) A child of the provider or provider's spouse;

(iv) A sibling, half sibling, or stepsibling of the provider or provider's spouse;

(v) A grandparent of the provider or provider's spouse;

(vi) A grandchild of the provider or provider's spouse;

(vii) An employee or employer of the provider or provider's spouse.

(b) In the case of a provider that is a person other than an individual, any of the following:

(i) An employee of the person;

(ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer;

(iii) A member of the provider's board of directors or trustees;

(iv) A person owning a financial interest of five per cent or more in the provider;

(v) A corporation that has a subsidiary relationship with the provider;

(vi) A person or government entity that has control over the provider's day-to-day operation;

(vii) A person over which the provider has control of the day-to-day operation.

(c) In the case of a provider that is a government entity, any of the following:

(i) An employee of the provider;

(ii) An officer of the provider;

(iii) A member of the provider's governing board;

(iv) A government entity that has control over the provider's day-to-day operation;

(v) A person or government entity over which the provider has control of the day-to-day operation.

(B) No person or government entity may provide supported

living without a valid supported living certificate issued by the director of developmental disabilities.

(C) A county board of developmental disabilities may provide supported living only to the extent permitted by rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code.

Sec. 5123.161. A person or government entity that seeks to provide supported living shall apply to the director of developmental disabilities for a supported living certificate.

Except as provided in ~~section~~ sections 5123.166 and 5123.169 of the Revised Code, the director shall issue to the ~~applicant~~ person or government entity a supported living certificate if the ~~applicant~~ person or government entity follows the application process established in rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code, meets the applicable certification standards established in those rules, and pays the certification fee established in those rules.

Sec. 5123.162. The director of developmental disabilities may conduct surveys of persons and government entities that seek a supported living certificate to determine whether the persons and government entities meet the certification standards. The director may also conduct surveys of providers to determine whether the providers continue to meet the certification standards. The director shall conduct the surveys in accordance with rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code.

The records of surveys conducted under this section are public records for the purpose of section 149.43 of the Revised Code and shall be made available on the request of any person or government entity.

Sec. 5123.163. A supported living certificate is valid for a

period of time established in rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code, unless any of the following occur before the end of that period of time:

(A) The director of developmental disabilities issues an order requiring that action be taken against the certificate holder under section 5123.166 of the Revised Code.

(B) The director issues an order terminating the certificate under section 5123.168 of the Revised Code.

(C) The certificate holder voluntarily surrenders the certificate to the director.

Sec. 5123.164. Except as provided in ~~section~~ sections 5123.166 and 5123.169 of the Revised Code, the director of developmental disabilities shall renew a supported living certificate if the certificate holder follows the renewal process established in rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code, continues to meet the applicable certification standards established in those rules, and pays the renewal fee established in those rules.

Sec. 5123.166. (A) If good cause exists as specified in division (B) of this section and determined in accordance with procedures established in rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code, the director of developmental disabilities may issue an adjudication order requiring that one of the following actions be taken against a person or government entity seeking or holding a supported living certificate:

(1) Refusal to issue or renew a supported living certificate;

(2) Revocation of a supported living certificate;

(3) Suspension of a supported living certificate holder's authority to do either or both of the following:

(a) Continue to provide supported living to one or more individuals from one or more counties who receive supported living from the certificate holder at the time the director takes the action;

(b) Begin to provide supported living to one or more individuals from one or more counties who do not receive supported living from the certificate holder at the time the director takes the action.

(B) The following constitute good cause for taking action under division (A) of this section against a person or government entity seeking or holding a supported living certificate:

(1) The person or government entity's failure to meet or continue to meet the applicable certification standards established in rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code;

(2) The person or government entity violates section 5123.165 of the Revised Code;

(3) The person or government entity's failure to satisfy the requirements of section 5123.081 or 5123.52~~, 5126.28, or 5126.281~~ of the Revised Code;

(4) Misfeasance;

(5) Malfeasance;

(6) Nonfeasance;

(7) Confirmed abuse or neglect;

(8) Financial irresponsibility;

(9) Other conduct the director determines is or would be injurious to individuals who receive or would receive supported living from the person or government entity.

(C) Except as provided in division (D) of this section, the

director shall issue an adjudication order under division (A) of this section in accordance with Chapter 119. of the Revised Code.

(D)(1) The director may issue an order requiring that action specified in division (A)(3) of this section be taken before a provider is provided notice and an opportunity for a hearing if all of the following are the case:

(a) The director determines such action is warranted by the provider's failure to continue to meet the applicable certification standards;

(b) The director determines that the failure either represents a pattern of serious noncompliance or creates a substantial risk to the health or safety of an individual who receives or would receive supported living from the provider;

(c) If the order will suspend the provider's authority to continue to provide supported living to an individual who receives supported living from the provider at the time the director issues the order, both of the following are the case:

(i) The director makes the individual, or the individual's guardian, aware of the director's determination under division (D)(1)(b) of this section and the individual or guardian does not select another provider.

(ii) A county board of developmental disabilities has filed a complaint with a probate court under section ~~5123.33~~ 5126.33 of the Revised Code that includes facts describing the nature of abuse or neglect that the individual has suffered due to the provider's actions that are the basis for the director making the determination under division (D)(1)(b) of this section and the probate court does not issue an order authorizing the county board to arrange services for the individual pursuant to an individualized service plan developed for the individual under section ~~5123.31~~ 5126.31 of the Revised Code.

(2) If the director issues an order under division (D)(1) of this section, sections 119.091 to 119.13 of the Revised Code and all of the following apply:

(a) The director shall send the provider notice of the order by registered mail, return receipt requested, not later than twenty-four hours after issuing the order and shall include in the notice the reasons for the order, the citation to the law or rule directly involved, and a statement that the provider will be afforded a hearing if the provider requests it within ten days of the time of receiving the notice.

(b) If the provider requests a hearing within the required time and the provider has provided the director the provider's current address, the director shall immediately set, and notify the provider of, the date, time, and place for the hearing.

(c) The date of the hearing shall be not later than thirty days after the director receives the provider's timely request for the hearing.

(d) The hearing shall be conducted in accordance with section 119.09 of the Revised Code, except for all of the following:

(i) The hearing shall continue uninterrupted until its close, except for weekends, legal holidays, and other interruptions the provider and director agree to.

(ii) If the director appoints a referee or examiner to conduct the hearing, the referee or examiner, not later than ten days after the date the referee or examiner receives a transcript of the testimony and evidence presented at the hearing or, if the referee or examiner does not receive the transcript or no such transcript is made, the date that the referee or examiner closes the record of the hearing, shall submit to the director a written report setting forth the referee or examiner's findings of fact and conclusions of law and a recommendation of the action the

director should take.

(iii) The provider may, not later than five days after the date the director, in accordance with section 119.09 of the Revised Code, sends the provider or the provider's attorney or other representative of record a copy of the referee or examiner's report and recommendation, file with the director written objections to the report and recommendation.

(iv) The director shall approve, modify, or disapprove the referee or examiner's report and recommendation not earlier than six days, and not later than fifteen days, after the date the director, in accordance with section 119.09 of the Revised Code, sends a copy of the report and recommendation to the provider or the provider's attorney or other representative of record.

(3) The director may lift an order issued under division (D)(1) of this section even though a hearing regarding the order is occurring or pending if the director determines that the provider has taken action eliminating the good cause for issuing the order. The hearing shall proceed unless the provider withdraws the request for the hearing in a written letter to the director.

(4) The director shall lift an order issued under division (D)(1) of this section if both of the following are the case:

(a) The provider provides the director a plan of compliance the director determines is acceptable.

(b) The director determines that the provider has implemented the plan of compliance correctly.

Sec. 5123.169. (A) The director of developmental disabilities shall not issue a supported living certificate to an applicant or renew an applicant's supported living certificate if either of the following applies:

(1) The applicant fails to comply with division (C)(2) of

this section;

(2) Except as provided in rules adopted under section 5123.1610 of the Revised Code, the applicant is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(B) Before issuing a supported living certificate to an applicant or renewing an applicant's supported living certificate, the director shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. The director also shall require the applicant to sign an agreement under which the applicant agrees to notify the director within fourteen calendar days if, while holding a supported living certificate, the applicant is formally charged with, is convicted of, pleads guilty to, or is found eligible for intervention in lieu of conviction for a disqualifying offense. The agreement shall provide that the applicant's failure to provide the notification may result in action being taken by the director against the applicant under section 5123.166 of the Revised Code.

(C)(1) As a condition of receiving a supported living certificate or having a supported living certificate renewed, an applicant shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant. If an applicant does not present proof to the director that the applicant has been a resident of this state for the five-year period immediately prior to the date that the applicant applies for issuance or renewal of the supported living certificate, the director shall require the applicant to request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal

records check. If the applicant presents proof to the director that the applicant has been a resident of this state for that five-year period, the director may require the applicant to request that the superintendent include information from the federal bureau of investigation in the criminal records check. For purposes of this division, an applicant may provide proof of residency in this state by presenting, with a notarized statement asserting that the applicant has been a resident of this state for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the applicant's permanent residence, or any other document the director considers acceptable.

(2) Each applicant shall do all of the following:

(a) Obtain a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code;

(b) Complete the form and provide the applicant's fingerprint impressions on the standard impression sheet;

(c) Forward the completed form and standard impression sheet to the superintendent at the time the criminal records check is requested;

(d) Instruct the superintendent to submit the completed report of the criminal records check directly to the director;

(e) Pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check of the applicant requested and conducted pursuant to this section.

(D) The director may request any other state or federal agency to supply the director with a written report regarding the

criminal record of an applicant. The director may consider the reports when determining whether to issue a supported living certificate to the applicant or to renew an applicant's supported living certificate.

(E) An applicant who seeks to be an independent provider or is an independent provider seeking renewal of the applicant's supported living certificate shall obtain the applicant's driving record from the bureau of motor vehicles and provide a copy of the record to the director if the supported living that the applicant will provide involves transporting individuals with mental retardation or developmental disabilities. The director may consider the applicant's driving record when determining whether to issue the applicant a supported living certificate or to renew the applicant's supported living certificate.

(F)(1) A report obtained pursuant to this section is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, other than the following:

(a) The applicant who is the subject of the report or the applicant's representative;

(b) The director or the director's representative;

(c) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(i) The denial of a supported living certificate or refusal to renew a supported living certificate;

(ii) The denial, suspension, or revocation of a certificate under section 5123.45 of the Revised Code;

(iii) A civil or criminal action regarding the medicaid program.

(2) An applicant for whom the director has obtained reports

under this section may submit a written request to the director to have copies of the reports sent to any person or state or local government entity. The applicant shall specify in the request the person or entities to which the copies are to be sent. On receiving the request, the director shall send copies of the reports to the persons or entities specified.

(3) The director may request that a person or state or local government entity send copies to the director of any report regarding a records check or criminal records check that the person or entity possesses, if the director obtains the written consent of the individual who is the subject of the report.

(4) The director shall provide each applicant with a copy of any report obtained about the applicant under this section.

Sec. ~~5123.169~~ 5123.1610. The director of developmental disabilities shall adopt rules under Chapter 119. of the Revised Code establishing all of the following:

(A) The extent to which a county board of developmental disabilities may provide supported living;

(B) The application process for obtaining a supported living certificate under section 5123.161 of the Revised Code;

(C) The certification standards a person or government entity must meet to obtain a supported living certificate to provide supported living;

(D) The certification fee for a supported living certificate, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(E) The period of time a supported living certificate is valid;

(F) The process for renewing a supported living certificate under section 5123.164 of the Revised Code;

(G) The renewal fee for a supported living certificate, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(H) Procedures for conducting surveys under section 5123.162 of the Revised Code;

(I) Procedures for determining whether there is good cause to take action under section 5123.166 of the Revised Code against a person or government entity seeking or holding a supported living certificate;

(J) Circumstances under which the director may issue a supported living certificate to an applicant or renew an applicant's supported living certificate if the applicant is found by a criminal records check required by section 5123.169 of the Revised Code to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets standards in regard to rehabilitation set by the director.

Sec. 5123.171. As used in this section, "respite care" means appropriate, short-term, temporary care provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

The department of developmental disabilities shall provide respite care services to persons with mental retardation or a developmental disability for the purpose of promoting self-sufficiency and normalization, preventing or reducing inappropriate institutional care, and furthering the unity of the family by enabling the family to meet the special needs of a mentally retarded or developmentally disabled person.

In order to be eligible for respite care services under this section, the mentally retarded or developmentally disabled person

must be in need of habilitation services as defined in section 5126.01 of the Revised Code.

Respite care may be provided in a residential facility licensed under section 5123.19 of the Revised Code ~~or~~ (including a residential facility certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," ~~49~~ 79 Stat. ~~620~~ 344 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1396, et seq., as amended~~, or certified as~~) and a respite care home certified under section 5126.05 of the Revised Code.

The department shall develop a system for locating vacant beds that are available for respite care and for making information on vacant beds available to users of respite care services. Facilities certified as intermediate care facilities for the mentally retarded shall report vacant beds to the department but shall not be required to accept respite care clients.

The director of developmental disabilities shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for both of the following:

(A) Certification by county boards of developmental disabilities of respite care homes;

(B) Provision of respite care services authorized by this section. Rules adopted under this division shall establish all of the following:

(1) A formula for distributing funds appropriated for respite care services;

(2) Standards for supervision, training and quality control in the provision of respite care services;

(3) Eligibility criteria for emergency respite care services.

Sec. 5123.19. (A) As used in ~~this section and in~~ sections ~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and~~ 5123.19 to

5123.20 of the Revised Code:

(1)~~(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.~~

~~(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.~~

~~(2) "Political subdivision" means a municipal corporation, county, or township.~~

~~(3)~~ "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

~~(4)~~(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 1905(d) of the "Social Security Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended.

(3) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(4) "Political subdivision" means a municipal corporation, county, or township.

(5) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(6)(a) Except as provided in division (A)(6)(b) of this section, "residential facility" means a home or facility, including a facility certified as an intermediate care facility for the mentally retarded, in which an individual with mental retardation or a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~5119.73,~~ 5103.03, ~~or~~ 5119.20, or division (A)(9)(b) of section 5119.22 of the Revised

Code. ~~Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.~~

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee

has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned

or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. The county board shall send a copy of the letter to each of the following:

(a) Each resident who receives services from the licensee;

(b) The guardian of each resident who receives services from the licensee if the resident has a guardian;

(c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental

agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in

which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities~~, including intermediate care facilities for the mentally retarded~~. The rules for residential facilities that are intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the

facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section ~~5123.193 or~~ 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee

is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care

of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(O) Any person may operate a licensed residential facility

that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential

facilities.

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.192. (A) A person or government agency operating, on the effective date of this section, an intermediate care facility for the mentally retarded pursuant to a nursing home license issued under Chapter 3721. of the Revised Code shall do both of the following as a condition of continuing to operate the

facility on and after July 1, 2013:

(1) Not later than February 1, 2013, apply to the director of developmental disabilities for a residential facility license under section 5123.19 of the Revised Code for the facility;

(2) Not later than July 1, 2013, obtain the residential facility license for the facility.

(B) The nursing home license of an intermediate care facility for the mentally retarded shall cease to be valid at the earliest of the following:

(1) The date that the facility's nursing home license is revoked or voided under section 3721.07 of the Revised Code;

(2) The date that a residential facility license is obtained for the facility under section 5123.19 of the Revised Code;

(3) July 1, 2013.

(C) No bed that is part of an intermediate care facility for the mentally retarded that is licensed as a nursing home on the effective date of this section may be used as part of a nursing home on and after the earlier of the following:

(1) The date that a residential facility license is obtained for the facility under section 5123.19 of the Revised Code;

(2) July 1, 2013.

Sec. 5123.31. (A) The department of developmental disabilities shall keep ~~in its office, accessible only to its employees, except by the consent of the department or the order of the judge of a court of record,~~ a record showing the name, residence, sex, age, nativity, occupation, condition, and date of entrance or commitment of every resident in the institutions governed by it, the date, cause, and terms of discharge and the condition of such person at the time of leaving, and also a record

of all transfers from one institution to another, and, if such person dies while in the care or custody of the department, the date and cause of death. These and such other facts as the department requires shall be furnished by the managing officer of each institution within ten days after the commitment, entrance, death, or discharge of a resident.

Except as provided in division (C) of this section, the department shall maintain the records described in this division in its office. The department shall make the records accessible only to its employees, except by the consent of the department or the order of the judge of a court of record.

(B) In case of an accident or injury or peculiar death of ~~a~~ an institution resident the managing officer shall make a special report to the department within twenty-four hours thereafter, giving the circumstances as fully as possible.

(C) After a period of time determined by the department, the records described in division (A) of this section may be deposited with the Ohio historical society. Neither the records nor the information contained in them shall be disclosed by the historical society, except as provided in section 5123.89 of the Revised Code.

Sec. 5123.38. (A) Except as provided in division (B) ~~and (C)~~ of this section, if an individual receiving supported living or home and community-based services funded by a county board of developmental disabilities is committed to a state-operated intermediate care facility for the mentally retarded pursuant to sections 5123.71 to 5123.76 of the Revised Code, ~~the department of developmental disabilities shall use the funds otherwise allocated to~~ the county board ~~as~~ is responsible for the nonfederal share of medicaid expenditures for the individual's care in the state-operated facility. The department of developmental

disabilities shall collect the amount of the nonfederal share from the county board by either withholding that amount from funds the department has otherwise allocated to the county board or submitting an invoice for payment of that amount to the county board.

(B) Division (A) of this section does not apply ~~if the~~ under any of the following circumstances:

(1) The county board, not later than ninety days after the date of the commitment of a person receiving supported ~~services~~ living, commences funding of supported living for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department.

~~(C) Division (A) of this section does not apply if the~~ (2) The county board, not later than ninety days after the date of the commitment of a person receiving home and community-based services, commences funding of home and community-based services for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department.

(3) The director of developmental disabilities, after determining that circumstances warrant granting a waiver in an individual's case, grants the county board a waiver that exempts the county board from responsibility for the nonfederal share for that case.

Sec. 5123.41. As used in this section and sections 5123.42 to 5123.47 of the Revised Code:

(A) "Adult services" has the same meaning as in section 5126.01 of the Revised Code.

(B) "Certified supported living provider" means a person or government entity certified under section 5123.161 of the Revised Code.

(C) "Drug" has the same meaning as in section 4729.01 of the Revised Code.

(D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.

(E) "Health-related activities" means the following:

(1) Taking vital signs;

(2) Application of clean dressings that do not require health assessment;

(3) Basic measurement of bodily intake and output;

(4) Oral suctioning;

(5) Use of glucometers;

(6) External urinary catheter care;

(7) Emptying and replacing colostomy bags;

(8) Collection of specimens by noninvasive means.

(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.

(G) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows:

(1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities;

(2) Through an entity under contract with the department of

developmental disabilities or a county board of developmental disabilities;

(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.

(H) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the activity or task.

(I) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs.

(J) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code ~~or subject to section 5123.192 of the Revised Code~~.

(K) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code.

(L) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube.

Sec. 5123.50. As used in ~~this section and~~ sections ~~5123.51, 5123.52, and 5123.541~~ 5123.50 to 5123.542 of the Revised Code:

(A) "Abuse" means all of the following:

(1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm;

(2) Sexual abuse;

(3) Verbal abuse.

(B) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.

(C) "MR/DD employee" means all of the following:

(1) An employee of the department of developmental disabilities;

(2) An employee of a county board of developmental disabilities;

(3) An employee in a position that includes providing specialized services to an individual with mental retardation or another developmental disability;

(4) An independent provider as defined in section 5123.16 of the Revised Code.

(D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual.

(E) "Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.

(F) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code.

~~(F)~~(G) "Prescribed medication" has the same meaning as in section 5123.41 of the Revised Code.

(H) "Sexual abuse" means unlawful sexual conduct or sexual contact.

~~(G)~~(I) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by the

department of developmental disabilities. A program or service available to the general public is not a specialized service.

~~(H)~~(J) "Verbal abuse" means purposely using words to threaten, coerce, intimidate, harass, or humiliate an individual.

~~(I)~~(K) "Sexual conduct," "sexual contact," and "spouse" have the same meanings as in section 2907.01 of the Revised Code.

Sec. 5123.51. (A) In addition to any other action required by sections 5123.61 and 5126.31 of the Revised Code, the department of developmental disabilities shall review each report the department receives of abuse or neglect of an individual with mental retardation or a developmental disability or misappropriation of an individual's property that includes an allegation that an MR/DD employee committed or was responsible for the abuse, neglect, or misappropriation. The department shall review a report it receives from a public children services agency only after the agency completes its investigation pursuant to section 2151.421 of the Revised Code. On receipt of a notice under section 2930.061 or 5123.541 of the Revised Code, the department shall review the notice.

(B) The department shall do both of the following:

(1) Investigate the allegation or adopt the findings of an investigation or review of the allegation conducted by another person or government entity and determine whether there is a reasonable basis for the allegation;

(2) If the department determines that there is a reasonable basis for the allegation, conduct an adjudication pursuant to Chapter 119. of the Revised Code.

(C)(1) The department shall appoint an independent hearing officer to conduct any hearing conducted pursuant to division (B)(2) of this section, except that, if the hearing is regarding

an employee of the department who is represented by a union, the department and a representative of the union shall jointly select the hearing officer.

(2)(a) Except as provided in division (C)(2)(b) of this section, no hearing shall be conducted under division (B)(2) of this section until any criminal proceeding or collective bargaining arbitration concerning the same allegation has concluded.

(b) The department may conduct a hearing pursuant to division (B)(2) of this section before a criminal proceeding concerning the same allegation is concluded if both of the following are the case:

(i) The department notifies the prosecutor responsible for the criminal proceeding that the department proposes to conduct a hearing.

(ii) The prosecutor consents to the hearing.

(3) In conducting a hearing pursuant to division (B)(2) of this section, the hearing officer shall do all of the following:

(a) Determine whether there is clear and convincing evidence that the MR/DD employee has done any of the following:

(i) Misappropriated property of one or more individuals with mental retardation or a developmental disability that has a value, either separately or taken together, of one hundred dollars or more;

(ii) Misappropriated property of an individual with mental retardation or a developmental disability that is designed to be used as a check, draft, negotiable instrument, credit card, charge card, or device for initiating an electronic fund transfer at a point of sale terminal, automated teller machine, or cash dispensing machine;

(iii) Misappropriated prescribed medication of an individual with mental retardation or a developmental disability;

(iv) Knowingly abused such an individual;

~~(iv)~~(v) Recklessly abused or neglected such an individual, with resulting physical harm;

~~(v)~~(vi) Negligently abused or neglected such an individual, with resulting serious physical harm;

~~(vi)~~(vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm;

~~(vii)~~(viii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care;

~~(viii)~~(ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with mental retardation or a developmental disability;

(x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with mental retardation or a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.

(b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation;

(c) Give weight to any relevant facts presented at the hearing.

(D)(1) Unless the director of developmental disabilities

determines that there are extenuating circumstances and except as provided in division (E) of this section, if the director, after considering all of the factors listed in division (C)(3) of this section, finds that there is clear and convincing evidence that an MR/DD employee has done one or more of the things described in division (C)(3)(a) of this section the director shall include the name of the employee in the registry established under section 5123.52 of the Revised Code.

(2) Extenuating circumstances the director must consider include the use of physical force by an MR/DD employee that was necessary as self-defense.

(3) If the director includes an MR/DD employee in the registry established under section 5123.52 of the Revised Code, the director shall notify the employee, the person or government entity that employs or contracts with the employee, the individual with mental retardation or a developmental disability who was the subject of the report and that individual's legal guardian, if any, the attorney general, and the prosecuting attorney or other law enforcement agency. If the MR/DD employee holds a license, certificate, registration, or other authorization to engage in a profession issued pursuant to Title XLVII of the Revised Code, the director shall notify the appropriate agency, board, department, or other entity responsible for regulating the employee's professional practice.

(4) If an individual whose name appears on the registry is involved in a court proceeding or arbitration arising from the same facts as the allegation resulting in the individual's placement on the registry, the disposition of the proceeding or arbitration shall be noted in the registry next to the individual's name.

(E) In the case of an allegation concerning an employee of the department, after the hearing conducted pursuant to division

(B)(2) of this section, the director of health or that director's designee shall review the decision of the hearing officer to determine whether the standard described in division (C)(3) of this section has been met. If the director or designee determines that the standard has been met and that no extenuating circumstances exist, the director or designee shall notify the director of developmental disabilities that the MR/DD employee is to be included in the registry established under section 5123.52 of the Revised Code. If the director of developmental disabilities receives such notification, the director shall include the MR/DD employee in the registry and shall provide the notification described in division (D)(3) of this section.

(F) If the department is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the MR/DD employee subject to the notice does not timely request a hearing in accordance with section 119.07 or 5123.0414 of the Revised Code, the department is not required to hold a hearing.

(G) Files and records of investigations conducted pursuant to this section are not public records as defined in section 149.43 of the Revised Code, but, on request, the department shall provide copies of those files and records to the attorney general, a prosecuting attorney, or a law enforcement agency.

Sec. 5123.542. (A) Each of the following shall annually provide a written notice to each of its MR/DD employees explaining the conduct for which an MR/DD employee may be included in the registry established under section 5123.52 of the Revised Code:

(1) The department of developmental disabilities;

(2) Each county board of developmental disabilities;

(3) Each ~~contracting entity~~ provider and subcontractor, as defined in section ~~5126.281~~ 5123.081 of the Revised Code;

(4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code;

(5) Each owner, operator, or administrator of a program certified by the department to provide supported living.

(B) The department of developmental disabilities or a county board of developmental disabilities shall provide the notice required by division (A) of this section to an MR/DD employee who is an independent provider as defined in section 5123.16 of the Revised Code.

(C) The notice described in division (A) of this section shall be in a form and provided in a manner prescribed by the department of developmental disabilities. The form shall be the same for all persons and entities required to provide notice under division (A) of this section.

(C) The fact that an MR/DD employee does not receive the notice required by this section does not exempt the employee from inclusion in the registry established under section 5123.52 of the Revised Code.

Sec. 5123.61. (A) As used in this section:

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the

department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that person, shall immediately report or cause reports to be made of such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of developmental disabilities. If the report concerns a resident of a facility operated by the department of developmental disabilities the report shall be made either to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of ~~an adult care~~ residential facility licensed under ~~Chapter 3722.~~ section 5119.22 of the Revised Code that provides accommodations,

supervision, and personal care services for three to sixteen unrelated adults, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A ~~clergyman~~ member of the clergy who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3)(a) The reporting requirements of this division do not apply to members of the legal rights service commission or to employees of the legal rights service.

(b) An attorney or physician is not required to make a report pursuant to division (C)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (C)(1) of this section, if both of the following apply:

(i) The client or patient, at the time of the communication, is a person with mental retardation or a developmental disability.

(ii) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(4) Any person who fails to make a report required under division (C) of this section and who is an MR/DD employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the person with mental

retardation or a developmental disability and the person's custodian, if known;

(2) The age of the person with mental retardation or a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that a person with mental retardation or a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or the county board of developmental disabilities. If the person is a resident of a facility operated by the department of developmental disabilities, the report shall be made to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(G)(1) Upon the receipt of a report concerning the possible abuse or neglect of a person with mental retardation or a developmental disability, the law enforcement agency shall inform the county board of developmental disabilities or, if the person

is a resident of a facility operated by the department of developmental disabilities, the director of the department or the director's designee.

(2) On receipt of a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the department of developmental disabilities shall notify the law enforcement agency.

(3) When a county board of developmental disabilities receives a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the superintendent of the board or an individual the superintendent designates under division (H) of this section shall notify the law enforcement agency. The superintendent or individual shall notify the department of developmental disabilities when it receives any report under this section.

(4) When a county board of developmental disabilities receives a report under this section and believes that the degree of risk to the person is such that the report is an emergency, the superintendent of the board or an employee of the board the superintendent designates shall attempt a face-to-face contact with the person with mental retardation or a developmental disability who allegedly is the victim within one hour of the board's receipt of the report.

(H) The superintendent of the board may designate an individual to be responsible for notifying the law enforcement agency and the department when the county board receives a report under this section.

(I) An adult with mental retardation or a developmental disability about whom a report is made may be removed from the

adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect it receives under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The investigation shall be in accordance with the memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the department shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code and the law enforcement agency shall make the written report of its findings to the county board.

(K) Any person or any hospital, institution, school, health department, or agency participating in the making of reports pursuant to this section, any person participating as a witness in an administrative or judicial proceeding resulting from the reports, or any person or governmental entity that discharges responsibilities under sections 5126.31 to 5126.33 of the Revised Code shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions except liability for perjury, unless the person or governmental entity has acted in bad faith or with malicious purpose.

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the person who is the subject of the report, to the person's legal counsel, and to agencies authorized to receive information in the report by the department or by a county board of developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding the injuries or physical neglect of a person with mental retardation or a developmental disability or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

Sec. 5123.89. (A) All certificates, applications, records, and reports made for the purpose of this chapter, other than court journal entries or court docket entries, which directly or indirectly identify a resident or former resident of an institution for the mentally retarded or person whose institutionalization has been sought under this chapter shall be kept confidential and shall not be disclosed by any person except in the following situations:

(1) It is the judgment of the court for judicial records, and the managing officer for institution records, that disclosure is in the best interest of the person identified, and that person or that person's guardian or, if that person is a minor, that person's parent or guardian consents.

(2) Disclosure is provided for in other sections of this chapter.

(3) It is the judgment of the managing officer for institution records that disclosure to a mental health facility is in the best interest of the person identified.

(4) Disclosure is of a record deposited with the Ohio historical society pursuant to division (C) of section 5123.31 of the Revised Code and the disclosure is made to the closest living relative of the person identified, on the relative's request.

(B) The department of developmental disabilities shall adopt rules with respect to the systematic and periodic destruction of residents' records.

(C)(1) As used in this division, "family" means a parent, brother, sister, spouse, son, daughter, grandparent, aunt, uncle, or cousin.

(2) Upon the death of a resident or former resident of an institution for the mentally retarded or a person whose

institutionalization was sought under this chapter, the managing officer of an institution shall provide access to the certificates, applications, records, and reports made for the purposes of this chapter to the resident's, former resident's, or person's guardian if the guardian makes a written request. If a deceased resident, former resident, or person whose institutionalization was sought under this chapter did not have a guardian at the time of death, the managing officer shall provide access to the certificates, applications, records, and reports made for purposes of this chapter to a member of the person's family, upon that family member's written request.

(D) No person shall reveal the contents of a record of a resident except as authorized by this chapter.

Sec. 5126.023. ~~(A)~~ None of the following individuals may serve as a member of a county board of developmental disabilities:

~~(1)~~(A) An elected public official, except for a township trustee, township fiscal officer, or individual excluded from the definition of public official or employee in division (B) of section 102.01 of the Revised Code;

~~(2)~~(B) An immediate family member of ~~another~~ a member of the same county board ~~member~~;

~~(3) A county board~~ (C) An employee ~~or~~ of any county board;

(D) An immediate family member of ~~a county board~~ an employee of the same county board;

~~(4)~~(E) A former employee of ~~the~~ a county board whose employment ~~with the county board~~ ceased less than ~~one~~ four calendar ~~year~~ years before the former employee would begin to serve as a member of the same county board;

~~(5) An~~ (F) A former employee of a county board whose employment ceased less than two years before the former employee

would begin to serve as a member of a different county board;

(G) Unless there is no conflict of interest, an individual who or whose immediate family member is a board member ~~or an employee~~ of an agency licensed or certified by the department of developmental disabilities to provide services to individuals with mental retardation or developmental disabilities or an individual who or whose immediate family member is an employee of such an agency;

~~(6) An individual who or whose immediate family member is a board member or employee of an agency contracting with the county board that is not licensed or certified by the department of developmental disabilities to provide services to individuals with mental retardation or developmental disabilities unless there is no conflict of interest;~~

~~(7)~~(H) An individual with an immediate family member who serves as a county commissioner of a county served by the county board unless the individual was a member of the county board before October 31, 1980.

~~(B) All questions relating to the existence of a conflict of interest for the purpose of division (A)(6) of this section shall be submitted to the local prosecuting attorney for resolution. The Ohio ethics commission may examine any issues arising under Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the Revised Code.~~

Sec. 5126.0220. (A) The superintendent of the county board of developmental disabilities shall do all of the following:

~~(A)~~(1) Administer the work of the board, subject to the board's rules;

~~(B)~~(2) Recommend to the board the changes necessary to increase the effectiveness of the programs and services offered

pursuant to Chapters 3323. and 5126. of the Revised Code;

~~(C)~~(3) Employ persons for all positions authorized by the board, approve contracts of employment for management employees that are for a term of one year or less, and approve personnel actions that involve employees in the classified civil service as may be necessary for the work of the board;

~~(D)~~(4) Approve compensation for employees within the limits set by the salary schedule and budget set by the board ~~and in accordance with section 5126.26 of the Revised Code~~, and ensure that all employees and consultants are properly reimbursed for actual and necessary expenses incurred in the performance of official duties;

~~(E)~~(5) Provide consultation to public agencies as defined in division (C) of section 102.01 of the Revised Code, including other county boards of developmental disabilities, and to individuals, agencies, or organizations providing services supported by the board.

(B) The superintendent may authorize the payment of board obligations by the county auditor.

Sec. 5126.0221. (A) As used in this section, "specialized services" has the same meaning as in section ~~5126.281~~ 5123.081 of the Revised Code.

(B) Except as provided in division (C) of section 5126.033 of the Revised Code, none of the following individuals may be employed by a county board of developmental disabilities:

(1) An employee of an agency contracting with the county board;

(2) An immediate family member of an employee of an agency contracting with the county board unless the county board adopts a resolution authorizing the immediate family member's employment

with the county board or the employment is consistent with a policy adopted by the board establishing parameters for such employment and the policy is consistent with Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the Revised Code;

(3) An individual with an immediate family member who serves as a county commissioner of any of the counties served by the county board unless the individual was an employee of the county board before October 31, 1980;

(4) An individual who is employed by, has an ownership interest in, performs or provides administrative duties for, or is a member of the governing board of an entity that provides specialized services, regardless of whether the entity contracts with the county board to provide specialized services.

Sec. 5126.043. ~~When an individual with mental retardation or other developmental disability is required within this chapter to consent, refuse to give consent, or withdraw consent for services and the individual has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code, the guardian for the individual appointed under that chapter and functioning in accordance with the appointment shall be responsible for giving, refusing to give, or withdrawing the consent for services.~~

~~Individuals~~ (A) Unless a guardian has been appointed for the individual, when a decision regarding receipt of a service or participation in a program provided for or funded under this chapter or Chapter 5123. of the Revised Code by an individual with mental retardation or other developmental disability must be made, the individual shall be permitted to make the decision. The individual may obtain support and guidance from an adult family member or other person, but doing so does not affect the right of the individual to make the decision.

(B) An individual with mental retardation or other

developmental disability may authorize an adult to make a decision described in division (A) of this section on the individual's behalf, as long as the adult does not have a financial interest in the decision. The authorization shall be made in writing.

(C) If a guardian has been appointed for an individual with mental retardation or other developmental disability, the guardian shall make any decision described in division (A) of this section on behalf of the individual. This section does not require appointment of a guardian.

(D) Individuals with mental retardation and other developmental disabilities, including those who have been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code, have the right to participate in decisions that affect their lives and to have their needs, desires, and preferences considered. An adult or guardian who makes a decision pursuant to division (B) or (C) of this section shall make a decision that is in the best interests of the individual on whose behalf the decision is made and that is consistent with the needs, desires, and preferences of that individual.

Sec. 5126.046. (A) ~~Each county board of developmental disabilities that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for habilitation, vocational, or community employment services provided as part of home and community-based services shall create a list of all persons and government entities eligible to provide such habilitation, vocational, or community employment services. If the county board chooses and is eligible to provide such habilitation, vocational, or community employment services, the county board shall include itself on the list. The county board shall make the list available to each individual with mental retardation or other developmental disability who resides in the~~

~~county and is eligible for such habilitation, vocational, or community employment services. The county board shall also make the list available to such individuals' families.~~

~~An~~ Except as otherwise provided by 42 C.F.R. 431.51, an individual with mental retardation or other developmental disability who is eligible for ~~habilitation, vocational, or community employment~~ home and community-based services ~~may choose the~~ has the right to obtain the services from any provider of the services~~.~~

~~(B) Each month, the department of developmental disabilities shall create a list of all persons and government entities eligible to provide residential services and supported living. The department shall include on the list all residential facilities licensed under section 5123.19 of the Revised Code and all supported living providers certified under section 5123.161 of the Revised Code. The department shall distribute the monthly lists to county boards that have local administrative authority under division (A) of section 5126.055 of the Revised Code for residential services and supported living provided as part of home and community-based services. A county board that receives a list shall make it available to each individual with mental retardation or other developmental disability who resides in the county and is eligible for such residential services or supported living. The county board shall also make the list available to the families of those individuals~~ that is qualified to furnish the services and is willing to furnish the services to the individual. A county board of developmental disabilities that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for home and community-based services and refuses to permit an individual to obtain home and community-based services from a qualified and willing provider shall provide the individual timely notice that the individual may request a hearing

under section 5101.35 of the Revised Code.

(B) An individual with mental retardation or other developmental disability who is eligible for nonmedicaid residential services or nonmedicaid supported living ~~may choose the~~ has the right to obtain the services from any provider of the residential services or supported living that is qualified to furnish the residential services or supported living and is willing to furnish the residential services or supported living to the individual.

(C) ~~If a county board that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for home and community-based services violates the right established by this section of an individual to choose a provider that is qualified and willing to provide services to the individual, the individual shall receive timely notice that the individual may request a hearing under section 5101.35 of the Revised Code.~~ The department of developmental disabilities shall make available to the public on its internet web site an up-to-date list of all providers of home and community-based services, nonmedicaid residential services, and nonmedicaid supported living. County boards shall assist individuals with mental retardation or other developmental disabilities and the families of such individuals access the list on the department's internet web site.

(D) The ~~departments~~ director of developmental disabilities ~~and job and family services~~ shall adopt rules in accordance with Chapter 119. of the Revised Code governing the implementation of this section. The rules shall include procedures for individuals to choose their ~~service~~ providers. The rules shall not be limited by a provider selection system established under section 5126.42 of the Revised Code, including any pool of providers created pursuant to a provider selection system.

Sec. 5126.055. (A) Except as provided in section 5126.056 of the Revised Code, a county board of developmental disabilities has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives home and community-based services:

(1) Perform assessments and evaluations of the individual. As part of the assessment and evaluation process, the county board shall do all of the following:

(a) Make a recommendation to the department of developmental disabilities on whether the department should approve or deny the individual's application for the services, including on the basis of whether the individual needs the level of care an intermediate care facility for the mentally retarded provides;

(b) If the individual's application is denied because of the county board's recommendation and the individual requests a hearing under section 5101.35 of the Revised Code, present, with the department of developmental disabilities or department of job and family services, whichever denies the application, the reasons for the recommendation and denial at the hearing;

(c) If the individual's application is approved, recommend to the departments of developmental disabilities and job and family services the services that should be included in the individual's individualized service plan and, if either department approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.871 of the Revised Code because of the county board's recommendation, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under

section 5101.35 of the Revised Code.

(2) ~~In accordance with the rules adopted under section 5126.046 of the Revised Code, perform the county board's~~ Perform any duties assigned to the county board in rules adopted under ~~that~~ section 5126.046 of the Revised Code regarding ~~assisting~~ the individual's right to choose a qualified and willing provider of the services and, at a hearing under section 5101.35 of the Revised Code, present evidence of the process for appropriate assistance in choosing providers;

(3) If the county board is certified under section 5123.161 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;

(4) Monitor the services provided to the individual and ensure the individual's health, safety, and welfare. The monitoring shall include quality assurance activities. If the county board provides the services, the department of developmental disabilities shall also monitor the services.

(5) Develop, with the individual and the provider of the individual's services, an effective individualized service plan that includes coordination of services, recommend that the departments of developmental disabilities and job and family services approve the plan, and implement the plan unless either department disapproves it. The individualized service plan shall include a summary page, agreed to by the county board, provider, and individual receiving services, that clearly outlines the amount, duration, and scope of services to be provided under the plan.

(6) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;

(7) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual.

(B) A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following:

(1) The county board's plan that the department of developmental disabilities approves under section 5123.046 of the Revised Code;

(2) All applicable federal and state laws;

(3) All applicable policies of the departments of developmental disabilities and job and family services and the United States department of health and human services;

(4) The department of job and family services' supervision under its authority under section 5111.01 of the Revised Code to act as the single state medicaid agency;

(5) The department of developmental disabilities' oversight.

(C) The departments of developmental disabilities and job and family services shall communicate with and provide training to county boards regarding medicaid local administrative authority granted by this section. The communication and training shall include issues regarding audit protocols and other standards established by the United States department of health and human services that the departments determine appropriate for communication and training. County boards shall participate in the training. The departments shall assess the county board's compliance against uniform standards that the departments shall establish.

(D) A county board may not delegate its medicaid local administrative authority granted under this section but may contract with a person or government entity, including a council of governments, for assistance with its medicaid local administrative authority. A county board that enters into such a contract shall notify the director of developmental disabilities. The notice shall include the tasks and responsibilities that the contract gives to the person or government entity. The person or government entity shall comply in full with all requirements to which the county board is subject regarding the person or government entity's tasks and responsibilities under the contract. The county board remains ultimately responsible for the tasks and responsibilities.

(E) A county board that has medicaid local administrative authority under this section shall, through the departments of developmental disabilities and job and family services, reply to, and cooperate in arranging compliance with, a program or fiscal audit or program violation exception that a state or federal audit or review discovers. The department of job and family services shall timely notify the department of developmental disabilities and the county board of any adverse findings. After receiving the notice, the county board, in conjunction with the department of developmental disabilities, shall cooperate fully with the department of job and family services and timely prepare and send to the department a written plan of correction or response to the adverse findings. The county board is liable for any adverse findings that result from an action it takes or fails to take in its implementation of medicaid local administrative authority.

(F) If the department of developmental disabilities or department of job and family services determines that a county board's implementation of its medicaid local administrative authority under this section is deficient, the department that

makes the determination shall require that county board do the following:

(1) If the deficiency affects the health, safety, or welfare of an individual with mental retardation or other developmental disability, correct the deficiency within twenty-four hours;

(2) If the deficiency does not affect the health, safety, or welfare of an individual with mental retardation or other developmental disability, receive technical assistance from the department or submit a plan of correction to the department that is acceptable to the department within sixty days and correct the deficiency within the time required by the plan of correction.

Sec. 5126.13. (A) A county board of developmental disabilities may enter into an agreement with one or more other county boards of developmental disabilities to establish a regional council in accordance with Chapter 167. of the Revised Code. The agreement shall specify the duties and functions to be performed by the council, which may include any duty or function a county board is required or authorized to perform under this chapter. ~~If directed to do so by a resolution adopted by a county board that is a member of a regional council, the department of developmental disabilities shall make any distributions of money for that county for the duties or functions performed by the council pursuant to its agreement that are otherwise required to be made to the county board under this chapter to the fiscal officer of the council designated under section 167.04 of the Revised Code.~~

A county board may also enter into an agreement with one or more school districts or other political subdivisions to establish a regional council in accordance with Chapter 167. of the Revised Code.

(B) On or before the thirtieth day of March, the fiscal

officer of a regional council described in this section shall report to the department of developmental disabilities, in the format specified by the department, all income and operating expenditures of the council for the immediately preceding calendar year.

Sec. 5126.15. (A) A county board of developmental disabilities shall provide service and support administration to each individual three years of age or older who is eligible for service and support administration if the individual requests, or a person on the individual's behalf requests, service and support administration. A board shall provide service and support administration to each individual receiving home and community-based services. A board may provide, in accordance with the service coordination requirements of 34 C.F.R. 303.23, service and support administration to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303. A board may provide service and support administration to an individual who is not eligible for other services of the board. Service and support administration shall be provided in accordance with rules adopted under section 5126.08 of the Revised Code.

A board may provide service and support administration by directly employing service and support administrators or by contracting with entities for the performance of service and support administration. Individuals employed or under contract as service and support administrators shall not be in the same collective bargaining unit as employees who perform duties that are not administrative.

Individuals employed by a board as service and support administrators shall not be assigned responsibilities for implementing other services for individuals and shall not be employed by or serve in a decision-making or policy-making

capacity for any other entity that provides programs or services to individuals with mental retardation or developmental disabilities. An individual employed as a conditional status service and support administrator shall perform the duties of service and support administration only under the supervision of a management employee who is a service and support administration supervisor.

(B) The individuals employed by or under contract with a board to provide service and support administration shall do all of the following:

(1) Establish an individual's eligibility for the services of the county board of developmental disabilities;

(2) Assess individual needs for services;

(3) Develop individual service plans with the active participation of the individual to be served, other persons selected by the individual, and, when applicable, the provider selected by the individual, and recommend the plans for approval by the department of developmental disabilities when services included in the plans are funded through medicaid;

(4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs;

(5) Assist individuals in making selections from among the providers they have chosen;

(6) Ensure that services are effectively coordinated and provided by appropriate providers;

(7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual;

(8) Perform quality assurance reviews as a distinct function

of service and support administration;

(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual~~;~~

~~(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator shall make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation~~.

Sec. 5126.20. As used in this section and sections 5126.21 to ~~5126.29~~ 5126.25 of the Revised Code:

(A) "Service employee" means a person employed by a county board of developmental disabilities in a position which may require ~~evidence of~~ registration under section 5126.25 of the Revised Code but for which a bachelor's degree from an accredited college or university is not required, and includes employees in the positions listed in division (C) of section 5126.22 of the Revised Code.

(B)(1) "Professional employee" means both of the following:

(a) A person employed by a board in a position for which either a bachelor's degree from an accredited college or university or a license or certificate issued under Title XLVII of

the Revised Code is a minimum requirement;

(b) A person employed by a board as a conditional status service and support administrator.

(2) "Professional employee" includes employees in the positions listed in division (B) of section 5126.22 of the Revised Code.

(C) "Management employee" means a person employed by a board in a position having supervisory or managerial responsibilities and duties, and includes employees in the positions listed in division (A) of section 5126.22 of the Revised Code.

(D) "Limited contract" means a contract of limited duration which is renewable at the discretion of the superintendent.

(E) ~~"Continuing contract" means a contract of employment that was issued prior to June 24, 1988, to a classified employee under which the employee has completed the employee's probationary period and under which the employee retains employment until the employee retires or resigns, is removed pursuant to section 5126.23 of the Revised Code, or is laid off.~~

~~(F)~~ "Supervisory responsibilities and duties" includes the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees of the board; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature but requires the use of independent judgment.

~~(G)~~(F) "Managerial responsibilities and duties" includes formulating policy on behalf of the board, responsibly directing the implementation of policy, assisting in the preparation for the conduct of collective negotiations, administering collectively negotiated agreements, or having a major role in personnel administration.

~~(H)~~(G) "Investigative agent" means an individual who conducts investigations under section 5126.313 of the Revised Code.

Sec. 5126.21. As used in this section, "management employee" does not include the superintendent of a county board of developmental disabilities.

(A)(1) Each management employee of a county board of developmental disabilities shall hold a limited contract for a period of not less than one year and not more than five years, except that a management employee hired after the beginning of a program year may be employed under a limited contract expiring at the end of the program year. The board shall approve all contracts of employment for management employees that are for a term of more than one year. A management employee shall receive notice of the superintendent's intention not to rehire the employee at least ninety days prior to the expiration of the contract. ~~If the superintendent fails to notify a management employee, the employee shall be reemployed under a limited contract of one year at the same salary plus any authorized salary increases.~~

(2) During the term of a contract a management employee's salary may be increased, but shall not be reduced unless the reduction is part of a uniform plan affecting all employees of the board.

(B) All management employees may be removed, suspended, or demoted for cause pursuant to section 5126.23 of the Revised Code.

(C) All management employees shall receive employee benefits ~~that shall include sick leave, vacation leave, holiday pay, and such other benefits~~ as ~~are~~ established by the board. Sections 124.38 and 325.19 of the Revised Code do not apply to management employees.

(D) The superintendent of a county board of developmental

disabilities shall notify all management employees of the board of their salary no later than thirty days before the first day of the new contract year.

(E) ~~All management employees of a county board of developmental disabilities who were given continuing contract status prior to the effective date of this section have continuing contract status so long as they maintain employment with the board.~~

~~(F) All management employees who were probationary employees on the effective date of this section shall, upon completion of their probationary period, be granted continuing contract status if retained in employment.~~

~~(G)~~ Each county board of developmental disabilities shall establish a lay-off policy to be followed if it determines a reduction in the number of management employees is necessary.

Sec. 5126.22. (A) Employees who hold the following positions in a county board of developmental disabilities are management employees:

assistant superintendent

director of business

director of personnel

adult services director

workshop director

habilitation manager

director of residential services

principal (director of children services)

program or service supervisor

plant manager

production manager

service and support administration supervisor

investigative agent

confidential employees as defined in section 4117.01 of the Revised Code

positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities and duties

positions designated by the county board in accordance with division (D) of this section.

(B) Employees who hold the following positions in a board are professional employees:

personnel licensed or certified pursuant to Chapter 3319. of the Revised Code

early intervention specialist

physical development specialist

habilitation specialist

work adjustment specialist

placement specialist

vocational evaluator

psychologist

occupational therapist

speech and language pathologist

recreation specialist

behavior management specialist

physical therapist

supportive home services specialist

licensed practical nurse or registered nurse

rehabilitation counselor

doctor of medicine and surgery or of osteopathic medicine and surgery

dentist

service and support administrator

conditional status service and support administrator

social worker

any position that is not a management position and for which the standards for certification established by the director of developmental disabilities under section 5126.25 of the Revised Code require a bachelor's or higher degree

professional positions designated by the director

professional positions designated by the county board in accordance with division (D) of this section.

(C) Employees who hold positions in a board that are neither management positions nor professional positions are service employees. Service employee positions include:

workshop specialist

workshop specialist assistant

contract procurement specialist

community employment specialist

any assistant to a professional employee certified to provide, or supervise the provision of, adult services or service and support administration

service positions designated by the director

service positions designated by a county board in accordance with division (D) of this section.

(D) A county board may designate a position only if the position does not include directly providing, or supervising employees who directly provide, service or instruction to individuals with mental retardation or developmental disabilities.

(E) If a county board desires to have a position established that is not specifically listed in this section that includes directly providing, or supervising employees who directly provide, services or instruction to individuals with mental retardation or developmental disabilities, the board shall submit to the director a written description of the position and request that the director designate the position as a management, professional, or service position under this section. The director shall consider each request submitted under this division and respond within thirty days. If the director approves the request, the director shall designate the position as a management, professional, or service position.

(F) A county board shall not terminate its employment of any management, professional, or service employee solely because a position is added to or eliminated from those positions listed in this section or because a position is designated or no longer designated by the director or a county board.

Sec. 5126.25. (A) The director of developmental disabilities shall adopt rules ~~in accordance with Chapter 119. of the Revised Code~~ under division (C) of this section establishing uniform standards and procedures for the certification and registration of persons ~~for employment by county boards of developmental disabilities as superintendents, management employees, and professional employees and uniform standards and procedures for the registration of persons for employment by county boards as registered service employees. As part of the rules, the director may establish continuing education and professional training~~

~~requirements for renewal of certificates and evidence of registration and shall establish such requirements for renewal of an investigative agent certificate. In the rules, the director shall establish certification standards for employment in the position of investigative agent that require an individual to have or obtain no less than an associate degree from an accredited college or university or have or obtain comparable experience or training. The director shall not adopt rules that require any service employee to have or obtain a bachelor's or higher degree.~~

~~The director shall adopt the rules in a manner that provides for the issuance of certificates and evidence of registration according to categories, levels, and grades. The rules shall describe each category, level, and grade.~~

~~The rules adopted under this division shall apply to persons employed or seeking employment in a position that includes directly providing, or supervising persons who directly provide, services or instruction to or on behalf of individuals with mental retardation or developmental disabilities, except that the rules shall not apply to persons who hold a valid license issued under Chapter 3319. of the Revised Code and perform no duties other than teaching or supervision of a teaching program or persons who hold a valid license or certificate issued under Title XLVII of the Revised Code and perform only those duties governed by the license or certificate. The rules shall specify the positions that require certification or registration. The rules shall specify that the position of investigative agent requires certification~~, other than the persons described in division (I) of this section, who are seeking employment with or are employed by either of the following:

(1) A county board of developmental disabilities;

(2) An entity that contracts with a county board to operate programs and services for individuals with mental retardation or

developmental disabilities.

(B) No person shall be employed in a position for which certification or registration is required pursuant to the rules adopted under this section without the certification or registration that is required for that position. The person shall not be employed or shall not continue to be employed if the required certification or registration is denied, revoked, or not renewed.

~~(B)~~(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code ~~establishing standards for approval of courses of study to prepare persons to meet certification requirements. The director shall approve courses of study meeting the standards and provide for the inspection of the courses to ensure the maintenance of satisfactory training procedures. The director shall approve courses of study only if given by a state university or college as defined in section 3345.32 of the Revised Code, a state university or college of another state, or an institution that has received a certificate of authorization to confer degrees from the board of regents pursuant to Chapter 1713. of the Revised Code or from a comparable agency of another state~~ as the director considers necessary to implement and administer this section, including rules establishing all of the following:

(1) Positions of employment that are subject to this section and, for each position, whether a person must receive certification or receive registration to be employed in that position;

(2) Requirements that must be met to receive the certification or registration required to be employed in a particular position, including standards regarding education, specialized training, and experience, taking into account the needs of individuals with mental retardation or developmental

disabilities and the specialized techniques needed to serve them, except that the rules shall not require a person designated as a service employee under section 5126.22 of the Revised Code to have or obtain a bachelor's or higher degree;

(3) Procedures to be followed in applying for initial certification or registration and for renewing the certification or registration.

(4) Requirements that must be met for renewal of certification or registration, which may include continuing education and professional training requirements;

(5) Subject to section 5126.23 of the Revised Code, grounds for which certification or registration may be denied, suspended, or revoked and procedures for appealing the denial, suspension, or revocation.

~~(C)~~(D) Each ~~applicant for a certificate for employment or evidence of~~ person seeking certification or registration for employment ~~by a county board~~ shall apply ~~to the department of developmental disabilities on forms that the director of the department shall prescribe and provide. The application shall be accompanied by the application fee~~ in the manner established in rules adopted under this section.

~~(D) The director shall issue a certificate for employment to each applicant who meets the standards for certification established under this section and shall issue evidence of registration for employment to each applicant who meets the standards for registration established under this section. Each certificate or evidence of registration shall state the category, level, and grade for which it is issued.~~

~~The director shall issue, renew, deny, suspend, or revoke certificates and evidence of registration in accordance with rules adopted under this section. The director shall deny, suspend, or~~

~~revoke a certificate or evidence of registration if the director finds, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, that the applicant for or holder of the certificate or evidence of registration is guilty of intemperate, immoral, or other conduct unbecoming to the applicant's or holder's position, or is guilty of incompetence or negligence within the scope of the applicant's or holder's duties. The director shall deny or revoke a certificate or evidence of registration if the director finds, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, that the applicant for or holder of the certificate or evidence of registration has been convicted of or pleaded guilty to any of the offenses described in division (E) of section 5126.28 of the Revised Code, unless the individual meets standards for rehabilitation that the director establishes in the rules adopted under that section. Evidence supporting such allegations shall be presented to the director in writing and the director shall provide prompt notice of the allegations to the person who is the subject of the allegations. A denial, suspension, or revocation may be appealed in accordance with procedures the director shall establish in the rules adopted under this section.~~

(E)(1) Except as provided in division (E)(2) of this section, the superintendent of each county board is responsible for taking all actions regarding certification and registration of employees, other than the position of superintendent or investigative agent. For the position of superintendent or investigative agent, the director of developmental disabilities is responsible for taking all such actions.

Actions that may be taken by the superintendent or director include issuing, renewing, denying, suspending, and revoking certification and registration. All actions shall be taken in accordance with the rules adopted under this section.

The superintendent may charge a fee to persons applying for certification or registration. The superintendent shall establish the amount of the fee according to the costs the county board incurs in administering its program for certification and registration of employees.

A person subject to the denial, suspension, or revocation of certification or registration may appeal the decision. The appeal shall be made in accordance with the rules adopted under this section.

(2) Pursuant to division (C) of section 5126.05 of the Revised Code, the superintendent may enter into a contract with any other entity under which the entity is given authority to carry out all or part of the superintendent's responsibilities under division (E)(1) of this section.

(F) A person ~~holding a~~ with valid ~~certificate~~ certification or registration under this section on the effective date of any rules adopted under this section that increase the standards applicable to the certification ~~standards~~ or registration shall have such period as the rules prescribe, but not less than one year after the effective date of the rules, to meet the new certification or registration standards.

~~A person who is registered under this section on the effective date of any rule that changes the standards adopted under this section shall have such period as the rules prescribe, but not less than one year, to meet the new registration standards.~~

~~(2) If an applicant for a certificate for employment has not completed the courses of instruction necessary to meet the department's standards for certification, the department shall inform the applicant of the courses the applicant must successfully complete to meet the standards and shall specify the~~

~~time within which the applicant must complete the courses. The department shall grant the applicant at least one year to complete the courses and shall not require the applicant to complete more than four courses in any one year. The applicant is not subject to any changes regarding the courses required for certification that are made after the department informs the applicant of the courses the applicant must complete, unless the applicant does not successfully complete the courses within the time specified by the department.~~

~~(F)~~(G) A person ~~who holds a certificate~~ with valid certification or ~~evidence of~~ registration~~, other than one designated as temporary,~~ is qualified to be employed according to that ~~certificate~~ certification or ~~evidence of~~ registration by any county board or entity contracting with a county board.

~~(G)~~(H) The director shall monitor county boards to ensure that their employees ~~who must be certified or registered are appropriately certified or registered and~~ and the employees of their contracting entities have the applicable certification or registration required under this section and that the employees are performing only those functions they are authorized to perform under ~~their certificate~~ the certification or ~~evidence of~~ registration~~.~~

~~(H) A county board superintendent or the superintendent's designee may certify to the director that county board employees who are required to meet continuing education or professional training requirements as a condition of renewal of certificates or evidence of registration have met the requirements~~. The superintendent of each county board or the superintendent's designee shall maintain in appropriate personnel files evidence acceptable to the director that the employees have met the requirements ~~and permit~~. On request, representatives of the department of developmental disabilities shall be given access to

the evidence ~~on request~~.

(I) ~~All fees collected pursuant to this section shall be deposited in the state treasury to the credit of the program fee fund created under section 5123.033 of the Revised Code.~~

~~(J) Employees of entities that contract with county boards of developmental disabilities to operate programs and services for individuals with mental retardation and developmental disabilities are subject to the certification and registration requirements established under section 5123.082 of the Revised Code~~ The certification and registration requirements of this section and the rules adopted under it do not apply to either of the following:

(1) A person who holds a valid license issued or certificate issued under Chapter 3319. of the Revised Code and performs no duties other than teaching or supervision of a teaching program;

(2) A person who holds a valid license or certificate issued under Title XLVII of the Revised Code and performs only those duties governed by the license or certificate.

Sec. 5126.251. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the director of developmental disabilities or the superintendent of a county board of developmental disabilities shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to ~~a certificate~~ a person's certification or ~~evidence of~~ registration ~~issued pursuant to this chapter~~ under section 5126.25 of the Revised Code.

Sec. 5126.51. As used in sections 5126.51 to 5126.62 of the Revised Code:

(A) "Develop" or "development," in contexts not referring to

developmental disabilities, means construction or rehabilitation.

(B) "Eligible lending institution" means a financial institution that meets all of the following requirements:

(1) Is eligible to make commercial loans;

(2) Has an office located within the territorial limits of the county;

(3) Is an institution into which the county's investing authority may deposit the public moneys of the county;

(4) Holds itself out as participating in the residential facility linked deposit program.

(C) "Eligible organization" means ~~either of the following:~~

~~(1) A~~ a nonprofit corporation that has as its primary activity the development or operation of a residential facility~~;~~

~~(2) A nonprofit corporation certified under section 5123.192 of the Revised Code~~.

(D) "Investing authority" has the same meaning as in section 135.31 of the Revised Code.

(E) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code ~~and also includes a residence where a nonprofit corporation certified under section 5123.192 of the Revised Code provides or proposes to provide supported living for individuals with mental retardation or developmental disabilities~~.

(F) "Residential facility linked deposit program" means the linked deposit program provided for in sections 5126.51 to 5126.62 of the Revised Code. A "residential facility linked deposit" is a deposit of public moneys of the county under, and for the purposes of, the residential facility linked deposit program. A "residential facility linked deposit loan" is a loan under, and for the purposes of, the residential facility linked deposit program.

Sec. 5139.41. The appropriation made to the department of youth services for care and custody of felony delinquents shall be expended in accordance with the following procedure that the department shall use for each year of a biennium. The procedure shall be consistent with sections 5139.41 to 5139.43 of the Revised Code and shall be developed in accordance with the following guidelines:

(A) The line item appropriation for the care and custody of felony delinquents shall provide funding for operational costs for the following:

(1) Institutions and the diagnosis, care, or treatment of felony delinquents at facilities pursuant to contracts entered into under section 5139.08 of the Revised Code;

(2) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions;

(3) County juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation services and programs that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children;

(4) Administrative expenses the department incurs in connection with the felony delinquent care and custody programs described in section 5139.43 of the Revised Code.

(B) From the appropriated line item for the care and custody of felony delinquents, the department, with the advice of the RECLAIM advisory committee established under section 5139.44 of

the Revised Code, shall allocate annual operational funds for county juvenile programs, institutional care and custody, community corrections facilities care and custody, and administrative expenses incurred by the department associated with felony delinquent care and custody programs. The department, with the advice of the RECLAIM advisory committee, shall adjust these allocations, when modifications to this line item are made by legislative or executive action.

(C) The department shall divide county juvenile program allocations among county juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children. The department shall base funding on the county's previous year's ratio of the department's institutional and community correctional facilities commitments to that county's ~~four year~~ average of felony adjudications, as specified in the following formula:

(1) The department shall give to each county a proportional allocation of commitment credits. The proportional allocation of commitment credits shall be calculated by the following procedures:

(a) The department shall determine for each county and for the state ~~a four year~~ an average of felony adjudications. Beginning July 1, 2012, the average shall include felony adjudications for fiscal year 2007 and for each subsequent fiscal year through fiscal year 2016. Beginning July 1, 2017, the most recent felony adjudication data shall be included and the oldest fiscal year data shall be removed so that a ten-year average of felony adjudication data will be maintained.

(b) The department shall determine for each county and for the state the number of charged bed days, for both the department

and community correctional facilities, from the previous year.

(c) The department shall divide the statewide total number of charged bed days by the statewide total number of felony adjudications, which quotient shall then be multiplied by a factor determined by the department.

(d) The department shall calculate the county's allocation of credits by multiplying the number of adjudications for each court by the result determined pursuant to division (C)(1)(c) of this section.

(2) The department shall subtract from the allocation determined pursuant to division (C)(1) of this section a credit for every chargeable bed day a youth stays in a department institution and two-thirds of credit for every chargeable bed day a youth stays in a community correctional facility, except for public safety beds. At the end of the year, the department shall divide the amount of remaining credits of that county's allocation by the total number of remaining credits to all counties, to determine the county's percentage, which shall then be applied to the total county allocation to determine the county's payment for the fiscal year.

(3) The department shall pay counties three times during the fiscal year to allow for credit reporting and audit adjustments, and modifications to the appropriated line item for the care and custody of felony delinquents, as described in this section. The department shall pay fifty per cent of the payment by the fifteenth of July of each fiscal year, twenty-five per cent by the fifteenth of January of that fiscal year, and twenty-five per cent of the payment by the fifteenth of June of that fiscal year.

~~(D) In fiscal year 2004, the payment of county juvenile programs shall be based on the following procedure:~~

~~(1) The department shall divide the funding earned by each~~

~~court in fiscal year 2003 by the aggregate funding of all courts, resulting in a percentage.~~

~~(2) The department shall apply the percentage determined under division (D)(1) of this section to the total county juvenile program allocation for fiscal year 2004 to determine each court's total payment.~~

~~(3) The department shall make payments in accordance with the schedule established in division (C)(3) of this section.~~

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section.

(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction

projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division (B)(2) of this section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. The maximum balance carry-over at the end of each respective fiscal year in the felony delinquent care and custody fund in any county from funds allocated to the county pursuant to sections 5139.34 and 5139.41 of the Revised Code in the previous fiscal year shall not exceed an amount to be calculated as provided in the formula set forth in this division, unless that county has applied for and been granted an exemption by the director of youth services. Beginning June 30, 2008, the maximum balance carry-over at the end of each respective fiscal year shall be determined by the following formula: for fiscal year 2008, the maximum balance carry-over shall be one hundred per cent of the allocation for fiscal year 2007, to be applied in determining the fiscal year 2009 allocation; for fiscal year 2009, it shall be fifty per cent of the allocation for fiscal year 2008, to be applied in determining the fiscal year 2010 allocation; for fiscal year 2010, it shall be twenty-five per cent of the allocation for fiscal year 2009, to be applied in determining the fiscal year 2011 allocation; and for each fiscal year subsequent to fiscal year 2010, it shall be twenty-five per cent of the allocation for the immediately preceding fiscal year, to be applied in determining the allocation for the next immediate fiscal year. The department shall withhold from future payments to a county an amount equal to any moneys in the felony delinquent care and custody fund of the county that exceed the total maximum balance carry-over that applies for that county for the fiscal year in which the payments are being made and shall reallocate the withheld amount. The

department shall adopt rules for the withholding and reallocation of moneys disbursed under sections 5139.34 and 5139.41 of the Revised Code and for the criteria and process for a county to obtain an exemption from the withholding requirement. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(2)(a) A county and the juvenile court that serves the county shall use the moneys in its felony delinquent care and custody fund in accordance with rules that the department of youth services adopts pursuant to division (D) of section 5139.04 of the Revised Code and as follows:

(i) The moneys in the fund that represent state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code shall be used to aid in the support of prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children or delinquent children or for children who are at risk of becoming unruly children or delinquent children. The county shall not use for capital improvements more than fifteen per cent of the moneys in the fund that represent the applicable annual grant of those state subsidy funds.

(ii) The moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to division (B)(1) of this section in the fund shall be used to provide programs and services for the training, treatment, or rehabilitation of felony

delinquents that are alternatives to their commitment to the department, including, but not limited to, community residential programs, day treatment centers, services within the home, and electronic monitoring, and shall be used in connection with training, treatment, rehabilitation, early intervention, or other programs or services for any delinquent child, unruly child, or juvenile traffic offender who is under the jurisdiction of the juvenile court.

The fund also may be used for prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children, delinquent children, or juvenile traffic offenders or for children who are at risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division (B)(1) of this section, a county and the juvenile court of a county shall not use any of those moneys for capital construction projects.

(iii) Moneys in the fund shall not be used to support programs or services that do not comply with federal juvenile justice and delinquency prevention core requirements or to support programs or services that research has shown to be ineffective. ~~Moneys in the fund shall be prioritized to research-supported~~ Research-supported, outcome-based programs and services, to the extent they are available, shall be encouraged.

(iv) The county and the juvenile court that serves the county may use moneys in the fund to provide out-of-home placement of children only in detention centers, community rehabilitation centers, or community corrections facilities approved by the department pursuant to standards adopted by the department, licensed by an authorized state agency, or accredited by the American correctional association or another national organization recognized by the department.

(b) Each juvenile court shall comply with division (B)(3)(d)

of this section as implemented by the department. If a juvenile court fails to comply with division (B)(3)(d) of this section, the department shall not be required to make any disbursements in accordance with division (C) ~~or (D)~~ of section 5139.41 or division (C)(2) of section 5139.34 of the Revised Code.

(3) In accordance with rules adopted by the department pursuant to division (D) of section 5139.04 of the Revised Code, each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (B)(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division (B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county

served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(c) of this section. If the juvenile court fails to prepare and submit those monthly statistical reports within one hundred eighty days of the date the department establishes for their

submission, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation, and the state subsidy funds and the remainder of the applicable allocation shall revert to the department. If a juvenile court states in a monthly statistical report that the juvenile court adjudicated within a state fiscal year five hundred or more children to be delinquent children for committing acts that would be felonies if committed by adults and if the department determines that the data in the report may be inaccurate, the juvenile court shall have an independent auditor or other qualified entity certify the accuracy of the data on a date determined by the department.

(d) If the department requires the juvenile court and the county to participate in a fiscal monitoring program or another monitoring program that is conducted by the department to ensure compliance by the juvenile court and the county with division (B) of this section, the juvenile court and the county shall participate in the program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division (B) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund or shall file a written appeal with the department. If an appeal is timely

filed, the director of the department shall render a decision on the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision.

(C) The determination of which county a reduction of the care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths who do not qualify as public safety beds. The determination of which county a reduction of the care and custody allocation will be charged against shall be made as follows until each youth is released:

(1) In the event of a commitment, the reduction shall be charged against the committing county.

(2) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the department of youth services pursuant to the order of recommitment, whichever is later. Reductions of the allocation shall be charged against the county that recommitted the youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction shall be charged against the county that revokes the youth's parole.

(D) A juvenile court is not precluded by its allocation amount for the care and custody of felony delinquents from committing a felony delinquent to the department of youth services

for care and custody in an institution or a community corrections facility when the juvenile court determines that the commitment is appropriate.

Sec. 5139.511. Before a youth is released from a secure facility under the control of the department of youth services, the department of youth services shall attempt to verify the youth's identification and social security number. If the department is able to verify the youth's identity with a verified birth certificate and social security number, the department shall issue an identification card that the youth may present to the registrar or deputy registrar of motor vehicles. If the department is not able to verify the youth's identity with both a verified birth certificate and social security number, the youth shall not receive an identification card under this section.

Sec. 5149.311. (A) The department of rehabilitation and correction shall establish and administer the probation improvement grant and the probation incentive grant for ~~court of common pleas~~ probation departments that supervise ~~felony~~ offenders sentenced by courts of common pleas or municipal courts.

(B)(1) The probation improvement grant shall provide funding to court ~~of common pleas~~ probation departments to adopt policies and practices based on the latest research on how to reduce the number of ~~felony~~ offenders on probation supervision who violate the conditions of their supervision.

(2) The department shall adopt rules for the distribution of the probation improvement grant, including the formula for the allocation of the subsidy based on the number of ~~felony~~ offenders placed on probation annually in each jurisdiction.

(C)(1) The probation incentive grant shall provide a performance-based level of funding to court ~~of common pleas~~

probation departments that are successful in reducing the number of felony offenders on probation supervision whose terms of supervision are revoked.

(2) The department shall calculate annually any cost savings realized by the state from a reduction in the percentage of people who are incarcerated because their terms of supervised probation were revoked. The cost savings estimate shall be calculated for each ~~county~~ jurisdiction served by the probation department eligible for a grant under this section and be based on the difference from fiscal year 2010 and the fiscal year under examination.

(3) The department shall adopt rules that specify the subsidy amount to be appropriated to court ~~of common pleas~~ probation departments that successfully reduce the percentage of people on probation who are incarcerated because their terms of supervision are revoked.

(D) The following stipulations apply to both the probation improvement grant and the probation incentive grant:

(1) In order to be eligible for the probation improvement grant and the probation incentive grant, courts of common pleas must satisfy all requirements under sections 2301.27 and 2301.30 of the Revised Code ~~and, except~~. Except for sentencing decisions made by a court when use of the risk assessment tool is discretionary, in order to be eligible for the probation improvement grant and the probation incentive grant, a court must utilize the single validated risk assessment tool selected by the department of rehabilitation and correction under section 5120.114 of the Revised Code.

(2) The department may deny a subsidy under this section to any applicant if the applicant fails to comply with the terms of any agreement entered into pursuant to any of the provisions of

this section.

(3) The department shall evaluate or provide for the evaluation of the policies, practices, and programs the court ~~of common pleas~~ probation departments utilize with the programs of subsidies established under this section and establish means of measuring their effectiveness.

(4) The department shall specify the policies, practices, and programs for which court ~~of common pleas~~ probation departments may use the program subsidy and shall establish minimum standards of quality and efficiency that recipients of the subsidy must follow. The department shall give priority to supporting evidence-based policies and practices, as defined by the department.

Sec. 5155.14. At the request of the superintendent or administrator of the county home, the board of county commissioners or operator shall set apart from the county home fund, a reserve fund not to exceed ~~four hundred~~ five thousand dollars at any time, which, upon the order of the board or operator shall be paid to the superintendent or administrator and expended as needed for emergency supplies and expenses. The superintendent or administrator shall keep an accurate account of the reserve fund, in a book to be provided at the expense of the county for that purpose, and all expenditures from it shall be audited by the board or operator. The county home fund shall be reimbursed by the superintendent or administrator, in full, for any items expended by the superintendent or administrator from the reserve fund, which items are not allowed by the board or operator. When, and as often as such amount is entirely disbursed, on the order of the board or operator, the county auditor shall pay to the superintendent or administrator the amount so appropriated.

Sec. 5501.04. ~~The following divisions are hereby established in the department of transportation:~~

~~(A) The division of business services;~~

~~(B) The division of engineering policy;~~

~~(C) The division of finance;~~

~~(D) The division of human resources;~~

~~(E) The division of information technology;~~

~~(F) The division of multi-modal planning and programs;~~

~~(G) The division of project management;~~

~~(H) The division of equal opportunity.~~

~~The~~ Pursuant to section 5501.02 of the Revised Code, the director of transportation shall distribute the duties, powers, and functions of the department among the divisions of the department.

Each division shall be headed by a deputy director, whose title shall be designated by the director, and shall include those other officers and employees as may be necessary to carry out the work of the division. ~~The director shall appoint the~~ Each deputy director of each division~~, who~~ shall be in the unclassified civil service of the state and shall serve at the pleasure of the director. The director ~~shall supervise the work of each division and~~ shall be responsible for the determination of general policies in the performance of the duties, powers, and functions of the department and of each division. The director shall have complete executive charge of the department, shall be responsible for the organization, direction, and supervision of the work of the department and the performance of the duties, powers, and functions assigned to each division, and may establish necessary administrative units therein. ~~The~~ Each deputy director of each

division, with the approval of the director and subject to Chapter 124. of the Revised Code, shall appoint the necessary employees of the division and may remove such employees for cause.

~~The division of equal opportunity shall ensure that minority groups and all groups protected by state and federal civil rights laws are afforded equal opportunity to be recruited, trained, and work in the employment of or on projects of the department of transportation, and to participate in contracts awarded by the department. The director of transportation each year shall report to the governor and the general assembly on the division's activities and accomplishments.~~

Sec. 5501.07. In addition to those duties, powers, and functions the director of transportation assigns to it, the office of ~~public transportation of the division of multi-modal planning and programs~~ transit:

(A) May issue grants from any public transportation grant appropriation to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate a public transportation system.

The director shall establish criteria for the distribution of such grants. These criteria may include and the director may consider each of the following:

(1) The degree to which comprehensive regional transportation planning goals may be attained through a program for which a grant will be used;

(2) The amount of local financial or other support of public transportation operations and facilities affected by the program;

(3) The levels of existing service and fare;

(4) The degree to which the proposed plan demonstrates

approaches of potential value to other local transit boards, authorities, commissions, counties, municipal corporations, and private nonprofit organizations operating public transportation systems;

(5) The degree to which the grant applicant will use state and local funds to match a federal grant;

(6) Such other factors as the director determines.

Any criteria established by the director for the distribution of such grants shall be consistent with the requirements of the United States department of transportation, or any administration in the department, including, but not limited to, the federal transit administration. The director may designate in the criteria certain dates after which applications for specified portions of the appropriations made for this purpose will not be accepted.

(B) May issue grants from any elderly and handicapped transit fare assistance grant appropriation to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate public transportation systems for the purpose of reducing the transit or paratransit fares of elderly or handicapped persons. The director shall establish criteria for the distribution of such grants.

(C) May administer provisions of federal public transportation acts or programs applicable within the state, pursuant to an agreement entered into by the director with an appropriate official of the federal agency responsible for implementation of the federal acts or programs. The federal acts or programs shall include, but are not limited to, programs authorized under the "Act of July 5, 1994," 108 Stat. 785, 49 U.S.C.A. 5301, as amended.

(D) Shall furnish, upon request and within the limits of

appropriated funds, guidance in technical or policy matters to a county transit board, regional transit authority, regional transit commission, county, municipal corporation, or private nonprofit organization that operates or proposes to operate a public transportation system, and provide assistance and liaison in the preparation and submission of applications for federal and state funds;

(E) May apply for and accept grants or loans from any federal agency for the purpose of providing for the development or improvement of public transportation facilities or for the coordination of any activities related to the development or improvement of such facilities, and may provide any consideration from any public transportation grant appropriation and enter into any contracts that may be required in order to obtain such grants or loans from a federal agency.

Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles.

The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of promoting safety in the operation of motor vehicles on the highways, and conduct research and studies for the purpose of promoting safety on the highways of this state.

(B) The department shall administer the laws and rules relative to trauma and emergency medical services specified in Chapter 4765. of the Revised Code and any laws and rules relative to commercial medical transportation services as may be specified in Chapter 4766. of the Revised Code.

(C) The department shall administer and enforce the laws

contained in Chapters 4301. and 4303. of the Revised Code and enforce the rules and orders of the liquor control commission pertaining to retail liquor permit holders.

(D) The department shall administer the laws governing the state emergency management agency and shall enforce all additional duties and responsibilities as prescribed in the Revised Code related to emergency management services.

(E) The department shall conduct investigations pursuant to Chapter 5101. of the Revised Code in support of the duty of the department of job and family services to administer the supplemental nutrition assistance program throughout this state. The department of public safety shall conduct investigations necessary to protect the state's property rights and interests in the supplemental nutrition assistance program.

(F) The department of public safety shall enforce compliance with orders and rules of the public utilities commission and applicable laws in accordance with Chapters ~~4919.~~ 4905., 4921., and 4923. of the Revised Code regarding commercial motor vehicle transportation safety, economic, and hazardous materials requirements.

(G) Notwithstanding Chapter 4117. of the Revised Code, the department of public safety may establish requirements for its enforcement personnel, including its enforcement agents described in section 5502.14 of the Revised Code, that include standards of conduct, work rules and procedures, and criteria for eligibility as law enforcement personnel.

(H) The department shall administer, maintain, and operate the Ohio criminal justice network. The Ohio criminal justice network shall be a computer network that supports state and local criminal justice activities. The network shall be an electronic repository for various data, which may include arrest warrants,

notices of persons wanted by law enforcement agencies, criminal records, prison inmate records, stolen vehicle records, vehicle operator's licenses, and vehicle registrations and titles.

(I) The department shall coordinate all homeland security activities of all state agencies and shall be a liaison between state agencies and local entities for those activities and related purposes.

(J) Beginning July 1, 2004, the department shall administer and enforce the laws relative to private investigators and security service providers specified in Chapter 4749. of the Revised Code.

(K) The department shall administer criminal justice services in accordance with sections 5502.61 to 5502.66 of the Revised Code.

Sec. 5502.011. (A) As used in this section, "department of public safety" and "department" include all divisions within the department of public safety.

(B) The director ~~of the department~~ of public safety is the chief executive and administrative officer of the department. The director may establish policies governing the department, the performance of its employees and officers, the conduct of its business, and the custody, use, and preservation of departmental records, papers, books, documents, and property. The director also may authorize and approve investigations to be conducted by any of the department's divisions. Whenever the Revised Code imposes a duty upon or requires an action of the department, the director may perform the action or duty in the name of the department or direct such performance to be performed by the director's designee.

(C) In addition to any other duties enumerated in the Revised

Code, the director or the director's designee shall do all of the following:

(1) Administer and direct the performance of the duties of the department;

(2) Pursuant to Chapter 119. of the Revised Code, approve, adopt, and prescribe such forms and rules as are necessary to carry out the duties of the department;

(3) On behalf of the department and in addition to any authority the Revised Code otherwise grants to the department, have the authority and responsibility for approving and entering into contracts, agreements, and other business arrangements;

(4) Make appointments for the department as needed to comply with requirements of the Revised Code;

(5) Approve employment actions of the department, including appointments, promotions, discipline, investigations, and terminations;

(6) Accept, hold, and use, for the benefit of the department, any gift, donation, bequest, or devise, and may agree to and perform all conditions of the gift, donation, bequest, or devise, that are not contrary to law;

(7) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources;

(8) Do all other acts necessary or desirable to carry out this chapter.

(D)(1) The director of public safety may assess a reasonable fee, plus the amount of any charge or fee passed on from a financial institution, on a drawer or indorser for each of the following:

(a) A check, draft, or money order that is returned or

dishonored;

(b) An automatic bank transfer that is declined, due to insufficient funds or for any other reason;

(c) Any financial transaction device that is returned or dishonored for any reason.

(2) The director shall deposit any fee collected under this division in an appropriate fund as determined by the director based on the tax, fee, or fine being paid.

(3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code.

(E) The director shall establish a homeland security advisory council to advise the director on homeland security, including homeland security funding efforts. The advisory council shall include, but not be limited to, state and local government officials who have homeland security or emergency management responsibilities and who represent first responders. The director shall appoint the members of the council, who shall serve without compensation.

~~(F) The director of public safety shall adopt rules in accordance with Chapter 119. of the Revised Code as required by section 2909.28 of the Revised Code and division (A)(1) of section 2909.32 of the Revised Code. The director shall adopt rules as required by division (D) of section 2909.32 of the Revised Code, division (E) of section 2909.33 of the Revised Code, and division (D) of section 2909.34 of the Revised Code. The director may adopt rules pursuant to division (A)(2) of section 2909.32 of the Revised Code, division (A)(2) of section 2909.33 of the Revised Code, and division (A)(2) of section 2909.34 of the Revised Code.~~

Sec. ~~5503.21~~ 5502.05. There is hereby created in the department of public safety, ~~division of state highway patrol,~~ a

driver's license examination section ~~to be administered by the superintendent of the state highway patrol~~.

The ~~superintendent, with the approval of the~~ director of public safety~~,~~ may appoint necessary driver's license examiners and clerical personnel necessary to carry out the duties assigned under this section. The examiners shall be citizens of the United States and residents of the state and shall have such additional qualifications as the ~~superintendent, with the approval of the~~ director~~,~~ prescribes.

The salaries and classifications of examiners and personnel shall be fixed in accordance with section 124.15 or 124.152 of the Revised Code.

Sec. ~~5503.22~~ 5502.06. Driver's license examiners assigned to the driver's license examination section shall conduct all examinations for driver's licenses as required by sections 4507.01 to 4507.36 of the Revised Code, subject to the ~~regulations~~ rules issued by the registrar of motor vehicles.

Sec. ~~5503.23~~ 5502.07. The ~~superintendent of the state highway patrol, with the approval of the~~ director of public safety~~,~~ may conduct training schools for prospective driver's license examiners~~. The superintendent~~ and may establish rules governing the qualifications for admission to such schools and provide for competitive examinations to determine the fitness of such students for prospective examiners, not inconsistent with the rules of the director of administrative services.

Sec. 5503.02. (A) The state highway patrol shall enforce the laws of the state relating to the titling, registration, and licensing of motor vehicles; enforce on all roads and highways, notwithstanding section 4513.39 of the Revised Code, the laws relating to the operation and use of vehicles on the highways;

enforce and prevent the violation of the laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on the highways; investigate and enforce rules and laws of the public utilities commission governing the transportation of persons and property by motor carriers and report violations of such rules and laws to the commission; enforce against any motor ~~transportation company~~ carrier as defined in section ~~4921.02~~ 4923.01 of the Revised Code~~, any contract carrier by motor vehicle as defined in section 4923.02 of the Revised Code, any private motor carrier as defined in section 4923.20 of the Revised Code, and any motor carrier as defined in section 4919.75 of the Revised Code~~ those rules and laws that, if violated, may result in a forfeiture as provided in section ~~4905.83, 4919.99, 4921.99, or~~ 4923.99 of the Revised Code; investigate and report violations of all laws relating to the collection of excise taxes on motor vehicle fuels; and regulate the movement of traffic on the roads and highways of the state, notwithstanding section 4513.39 of the Revised Code.

The patrol, whenever possible, shall determine the identity of the persons who are causing or who are responsible for the breaking, damaging, or destruction of any improved surfaced roadway, structure, sign, marker, guardrail, or other appurtenance constructed or maintained by the department of transportation and shall arrest the persons who are responsible for the breaking, damaging, or destruction and bring them before the proper officials for prosecution.

State highway patrol troopers shall investigate and report all motor vehicle accidents on all roads and highways outside of municipal corporations. The superintendent of the patrol or any state highway patrol trooper may arrest, without a warrant, any person, who is the driver of or a passenger in any vehicle

operated or standing on a state highway, whom the superintendent or trooper has reasonable cause to believe is guilty of a felony, under the same circumstances and with the same power that any peace officer may make such an arrest.

The superintendent or any state highway patrol trooper may enforce the criminal laws on all state properties and state institutions, owned or leased by the state, and, when so ordered by the governor in the event of riot, civil disorder, or insurrection, may, pursuant to sections 2935.03 to 2935.05 of the Revised Code, arrest offenders against the criminal laws wherever they may be found within the state if the violations occurred upon, or resulted in injury to person or property on, state properties or state institutions, or under the conditions described in division (B) of this section. <u>This authority of the superintendent and any state highway patrol trooper to enforce the criminal laws shall extend to the Lake Erie Correctional Institution, to the same extent as if that prison were owned by this state.</u>

(B) In the event of riot, civil disorder, or insurrection, or the reasonable threat of riot, civil disorder, or insurrection, and upon request, as provided in this section, of the sheriff of a county or the mayor or other chief executive of a municipal corporation, the governor may order the state highway patrol to enforce the criminal laws within the area threatened by riot, civil disorder, or insurrection, as designated by the governor, upon finding that law enforcement agencies within the counties involved will not be reasonably capable of controlling the riot, civil disorder, or insurrection and that additional assistance is necessary. In cities in which the sheriff is under contract to provide exclusive police services pursuant to section 311.29 of the Revised Code, in villages, and in the unincorporated areas of the county, the sheriff has exclusive authority to request the use

of the patrol. In cities in which the sheriff does not exclusively provide police services, the mayor, or other chief executive performing the duties of mayor, has exclusive authority to request the use of the patrol.

The superintendent or any state highway patrol trooper may enforce the criminal laws within the area designated by the governor during the emergency arising out of the riot, civil disorder, or insurrection until released by the governor upon consultation with the requesting authority. State highway patrol troopers shall never be used as peace officers in connection with any strike or labor dispute.

When a request for the use of the patrol is made pursuant to this division, the requesting authority shall notify the law enforcement authorities in contiguous communities and the sheriff of each county within which the threatened area, or any part of the threatened area, lies of the request, but the failure to notify the authorities or a sheriff shall not affect the validity of the request.

(C) Any person who is arrested by the superintendent or a state highway patrol trooper shall be taken before any court or magistrate having jurisdiction of the offense with which the person is charged. Any person who is arrested or apprehended within the limits of a municipal corporation shall be brought before the municipal court or other tribunal of the municipal corporation.

(D)(1) State highway patrol troopers have the same right and power of search and seizure as other peace officers.

No state official shall command, order, or direct any state highway patrol trooper to perform any duty or service that is not authorized by law. The powers and duties conferred on the patrol are supplementary to, and in no way a limitation on, the powers

and duties of sheriffs or other peace officers of the state.

(2)(a) A state highway patrol trooper, pursuant to the policy established by the superintendent of the state highway patrol under division (D)(2)(b) of this section, may render emergency assistance to any other peace officer who has arrest authority under section 2935.03 of the Revised Code, if both of the following apply:

(i) There is a threat of imminent physical danger to the peace officer, a threat of physical harm to another person, or any other serious emergency situation;

(ii) Either the peace officer requests emergency assistance, or it appears that the peace officer is unable to request emergency assistance and the circumstances observed by the state highway patrol trooper reasonably indicate that emergency assistance is appropriate, or the peace officer requests emergency assistance and in the request the peace officer specifies a particular location and the state highway patrol trooper arrives at that location prior to the time that the peace officer arrives at that location and the circumstances observed by the state highway patrol trooper reasonably indicate that emergency assistance is appropriate.

(b) The superintendent of the state highway patrol shall establish, within sixty days of August 8, 1991, a policy that sets forth the manner and procedures by which a state highway patrol trooper may render emergency assistance to any other peace officer under division (D)(2)(a) of this section. The policy shall include a provision that a state highway patrol trooper never be used as a peace officer in connection with any strike or labor dispute.

(3)(a) A state highway patrol trooper who renders emergency assistance to any other peace officer under the policy established by the superintendent pursuant to division (D)(2)(b) of this

section shall be considered to be performing regular employment for the purposes of compensation, pension, indemnity fund rights, workers' compensation, and other rights or benefits to which the trooper may be entitled as incident to regular employment.

(b) A state highway patrol trooper who renders emergency assistance to any other peace officer under the policy established by the superintendent pursuant to division (D)(2)(b) of this section retains personal immunity from liability as specified in section 9.86 of the Revised Code.

(c) A state highway patrol trooper who renders emergency assistance under the policy established by the superintendent pursuant to division (D)(2)(b) of this section has the same authority as the peace officer for or with whom the state highway patrol trooper is providing emergency assistance.

(E)(1) Subject to the availability of funds specifically appropriated by the general assembly for security detail purposes, the state highway patrol shall provide security as follows:

(a) For the governor;

(b) At the direction of the governor, for other officials of the state government of this state; officials of the state governments of other states who are visiting this state; officials of the United States government who are visiting this state; officials of the governments of foreign countries or their political subdivisions who are visiting this state; or other officials or dignitaries who are visiting this state, including, but not limited to, members of trade missions;

(c) For the capitol square, as defined in section 105.41 of the Revised Code;

(d) For other state property.

(2) To carry out the security responsibilities of the patrol

listed in division (E)(1) of this section, the superintendent may assign state highway patrol troopers to a separate unit that is responsible for security details. The number of troopers assigned to particular security details shall be determined by the superintendent.

(3) The superintendent and any state highway patrol trooper, when providing security pursuant to division (E)(1)(a) or (b) of this section, have the same arrest powers as other peace officers to apprehend offenders against the criminal laws who endanger or threaten the security of any person being protected, no matter where the offense occurs.

The superintendent, any state highway patrol trooper, and any special police officer designated under section 5503.09 of the Revised Code, when providing security pursuant to division (E)(1)(c) of this section, shall enforce any rules governing capitol square adopted by the capitol square review and advisory board.

(F) The governor may order the state highway patrol to undertake major criminal investigations that involve state property interests. If an investigation undertaken pursuant to this division results in either the issuance of a no bill or the filing of an indictment, the superintendent shall file a complete and accurate report of the investigation with the president of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives within fifteen days after the issuance of the no bill or the filing of an indictment. If the investigation does not have as its result any prosecutorial action, the superintendent shall, upon reporting this fact to the governor, file a complete and accurate report of the investigation with the president of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of

representatives.

(G) The superintendent may purchase or lease real property and buildings needed by the patrol, negotiate the sale of real property owned by the patrol, rent or lease real property owned or leased by the patrol, and make or cause to be made repairs to all property owned or under the control of the patrol. Any instrument by which real property is acquired pursuant to this division shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sections 123.01 and 125.02 of the Revised Code do not limit the powers granted to the superintendent by this division.

Sec. 5503.04. Forty-five per cent of the fines collected from or moneys arising from bail forfeited by persons apprehended or arrested by state highway patrol troopers shall be paid into the state treasury to be credited to the general revenue fund, five per cent shall be paid into the state treasury to be credited to the trauma and emergency medical services ~~grants~~ fund created by ~~division (E) of~~ section 4513.263 of the Revised Code, and fifty per cent shall be paid into the treasury of the municipal corporation where the case is prosecuted, if in a mayor's court. If the prosecution is in a trial court outside a municipal corporation, or outside the territorial jurisdiction of a municipal court, the fifty per cent of the fines and moneys that is not paid into the state treasury shall be paid into the treasury of the county where the case is prosecuted. The fines and moneys paid into a county treasury and the fines and moneys paid into the treasury of a municipal corporation shall be deposited one-half to the same fund and expended in the same manner as is the revenue received from the registration of motor vehicles, and one-half to the general fund of such county or municipal

corporation.

If the prosecution is in a municipal court, forty-five per cent of the fines and moneys shall be paid into the state treasury to be credited to the general revenue fund, five per cent shall be paid into the state treasury to be credited to the trauma and emergency medical services grants fund created by division (E) of section 4513.263 of the Revised Code, ten per cent shall be paid into the county treasury to be credited to the general fund of the county, and forty per cent shall be paid into the municipal treasury to be credited to the general fund of the municipal corporation. In the Auglaize county, Clermont county, Crawford county, Hocking county, Jackson county, Lawrence county, Madison county, Miami county, Ottawa county, Portage county, and Wayne county municipal courts, that portion of money otherwise paid into the municipal treasury shall be paid into the county treasury.

The trial court shall make remittance of the fines and moneys as prescribed in this section, and at the same time as the remittance is made of the state's portion to the state treasury, the trial court shall notify the superintendent of the state highway patrol of the case and the amount covered by the remittance.

This section does not apply to fines for violations of division (B) of section 4513.263 of the Revised Code, or for violations of any municipal ordinance that is substantively comparable to that division, all of which shall be delivered to the treasurer of state as provided in division (E) of section 4513.263 of the Revised Code.

Sec. 5503.34. There is hereby created in the department of public safety, division of state highway patrol, a motor carrier enforcement unit, to be administered by the superintendent of the state highway patrol. This unit shall be responsible for

enforcement of commercial motor vehicle transportation safety~~, economic,~~ and hazardous materials requirements.

The superintendent, with the approval of the director of public safety, may appoint and maintain necessary staff to carry out the duties assigned under this section.

Employees of the motor carrier enforcement unit shall cooperate with the public utilities commission to enforce compliance with orders and rules of the commission, applicable laws under Chapters ~~4919~~ 4905., 4921., and 4923. of the Revised Code, and any other applicable laws or rules.

Uniformed employees of the motor carrier enforcement unit may stop commercial motor vehicles for the exclusive purpose of inspecting such vehicles to enforce compliance with orders and rules of the public utilities commission as required by division (F) of section 5502.01 of the Revised Code.

Sec. 5516.02. No advertising device shall be erected or maintained within six hundred sixty feet of the edge of the right-of-way of a highway on the interstate system except the following:

(A) Directional and official signs and notices that conform to rules adopted by the director of transportation;

(B) Signs advertising the sale or lease of the property upon which they are located;

(C) Advertising devices indicating the name of the business or profession conducted on such property or that identify the goods produced, sold, or services rendered on such property, and that conform to rules adopted by the director;

(D) Advertising devices that are located in commercial or industrial zones traversed by segments of the interstate system within the boundaries of a municipal corporation as such

boundaries existed on September 21, 1959, and that conform to rules adopted by the director;

(E) Advertising devices that are located on the premises of a professional sports facility and that conform to rules adopted by the director. For a professional sports facility that is located on real property owned by the state, the rules of the director shall allow an advertising device to be located within three hundred fifty feet of the structure of the professional sports facility and shall allow an advertising device to have a maximum area of five thousand square feet, excluding decorative bases and supports.

Sec. 5516.06. No advertising device shall be erected or maintained within six hundred sixty feet of the edge of the right-of-way of a highway on the primary system except the following:

(A) Directional and other official signs and notices that conform to rules adopted by the director of transportation;

(B) Signs advertising the sale or lease of the property upon which they are located;

(C) Advertising devices indicating the name of the business, activities, or profession conducted on such property or that identify the goods produced, sold, or services rendered on such property and that conform to rules adopted by the director;

(D) Precautionary signs relating to the premises;

(E) Signs, displays, or devices which locate, identify, mark, or warn of the presence of pipe lines, utility lines, or rail lines, and appurtenances thereof, including, but not limited to, markers used in the maintenance, operation, observation, and safety of said lines;

(F) Advertising devices located in zoned or unzoned

industrial or commercial areas adjacent to highways on the primary system that conform to rules adopted by the director;

(G) Signs lawfully in existence on October 22, 1965, that the director, subject to the approval of the secretary of the United States department of transportation, has determined to be landmark signs, including signs on farm structures or natural surfaces, which are of historic or artistic significance;

(H) Advertising devices that are located on the premises of a professional sports facility and that conform to rules adopted by the director. For a professional sports facility that is located on real property owned by the state, the rules of the director shall allow an advertising device to be located within three hundred fifty feet of the structure of the professional sports facility and shall allow an advertising device to have a maximum area of five thousand square feet, excluding decorative bases and supports.

Sec. 5701.13. (A) As used in this section:

(1) "Nursing home" means a nursing home or a home for the aging, as those terms are defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(2) "Residential care facility" means a residential care facility, as defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(3) "~~Adult care~~ Residential facility" means ~~an adult care~~ a residential facility ~~as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that ~~is issued a license pursuant to section 5119.73 of the Revised Code~~ provides accommodations, supervision, and personal care services for three to sixteen

unrelated adults.

(B) As used in Title LVII of the Revised Code, and for the purpose of other sections of the Revised Code that refer specifically to Chapter 5701. or section 5701.13 of the Revised Code, a "home for the aged" means either of the following:

(1) A place of residence for aged and infirm persons that satisfies divisions (B)(1)(a) to (e) of this section:

(a) It is a nursing home, residential care facility, or ~~adult care~~ residential facility.

(b) It is owned by a corporation, unincorporated association, or trust of a charitable, religious, or fraternal nature, which is organized and operated not for profit, which is not formed for the pecuniary gain or profit of, and whose net earnings or any part of whose net earnings is not distributable to, its members, trustees, officers, or other private persons, and which is exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1.

(c) It is open to the public without regard to race, color, or national origin.

(d) It does not pay, directly or indirectly, compensation for services rendered, interest on debts incurred, or purchase price for land, building, equipment, supplies, or other goods or chattels, which compensation, interest, or purchase price is unreasonably high.

(e) It provides services for the life of each resident without regard to the resident's ability to continue payment for the full cost of the services.

(2) A place of residence that satisfies divisions (B)(1)(b), (d), and (e) of this section; that satisfies the definition of "nursing home" or "residential care facility" under section

3721.01 of the Revised Code or the definition of "~~adult care~~ residential facility" under ~~section 5119.70 of the Revised Code~~ division (A)(3) of this section regardless of whether it is licensed as such a home or facility; and that is provided at no charge to individuals on account of their service without compensation to a charitable, religious, fraternal, or educational institution, which individuals are aged or infirm and are members of the corporation, association, or trust that owns the place of residence. For the purposes of division (B)(2) of this section, "compensation" does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

Exemption from taxation shall be accorded, on proper application, only to those homes or parts of homes which meet the standards and provide the services specified in this section.

Nothing in this section shall be construed as preventing a home from requiring a resident with financial need to apply for any applicable financial assistance or requiring a home to retain a resident who willfully refuses to pay for services for which the resident has contracted even though the resident has sufficient resources to do so.

(C)(1) If a corporation, unincorporated association, or trust described in division (B)(1)(b) of this section is granted a certificate of need pursuant to section 3702.52 of the Revised Code to construct, add to, or otherwise modify a nursing home, or is given approval pursuant to section 3791.04 of the Revised Code to construct, add to, or otherwise modify a residential care facility or ~~adult care~~ residential facility and if the corporation, association, or trust submits an affidavit to the tax commissioner stating that, commencing on the date of licensure and continuing thereafter, the home or facility will be operated in accordance with the requirements of divisions (B)(1)(a) to (e) of

this section, the corporation, association, or trust shall be considered to be operating a "home for the aged" within the meaning of division (B)(1) of this section, beginning on the first day of January of the year in which such certificate is granted or approval is given.

(2) If a corporation, association, or trust is considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, the corporation, association, or trust shall notify the tax commissioner in writing upon the occurrence of any of the following events:

(a) The corporation, association, or trust no longer intends to complete the construction of, addition to, or modification of the home or facility, to obtain the appropriate license for the home or facility, or to commence operation of the home or facility in accordance with the requirements of divisions (B)(1)(a) to (e) of this section;

(b) The certificate of approval referred to in division (C)(1) of this section expires, is revoked, or is otherwise terminated prior to the completion of the construction of, addition to, or modification of the home or facility;

(c) The license to operate the home or facility is not granted by the director of health within one year following completion of the construction of, addition to, or modification of the home or facility;

(d) The license to operate the home or facility is not granted by the director of health within four years following the date upon which the certificate or approval referred to in division (C)(1) of this section was granted or given;

(e) The home or facility is granted a license to operate as a nursing home, residential care facility, or ~~adult care~~ residential facility.

(3) Upon the occurrence of any of the events referred to in divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the corporation, association, or trust shall no longer be considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, except that the tax commissioner, for good cause shown and to the extent the commissioner considers appropriate, may extend the time period specified in division (C)(2)(c) or (d) of this section, or both. Nothing in division (C)(3) of this section shall be construed to prevent a nursing home, residential care facility, or ~~adult care~~ residential facility from qualifying as a "home for the aged" if, upon proper application made pursuant to division (B) of this section, it is found to meet the requirements of divisions (A) and (B) of this section.

Sec. 5703.05. All powers, duties, and functions of the department of taxation are vested in and shall be performed by the tax commissioner, which powers, duties, and functions shall include, but shall not be limited to, the following:

(A) Prescribing all blank forms which the department is authorized to prescribe, and to provide such forms and distribute the same as required by law and the rules of the department.

(B) Exercising the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes or assessments, including penalties and interest thereon, illegally or erroneously assessed or collected, or for any other reason overpaid, and in addition, the commissioner may on written application of any person, firm, or corporation claiming to have overpaid to the treasurer of state at any time within five years prior to the making of such application any tax payable under any law which the department of taxation is required to administer which does not contain any provision for refund, or on the commissioner's own motion investigate the facts and make in

triplicate a written statement of the commissioner's findings, and, if the commissioner finds that there has been an overpayment, issue in triplicate a certificate of abatement payable to the taxpayer, the taxpayer's assigns, or legal representative which shows the amount of the overpayment and the kind of tax overpaid. One copy of such statement shall be entered on the journal of the commissioner, one shall be certified to the attorney general, and one certified copy shall be delivered to the taxpayer. All copies of the certificate of abatement shall be transmitted to the attorney general, and if the attorney general finds it to be correct the attorney general shall so certify on each copy, and deliver one copy to the taxpayer, one copy to the commissioner, and the third copy to the treasurer of state. Except as provided in ~~sections~~ section 5725.08 ~~and 5725.16~~ of the Revised Code, the taxpayer's copy of any certificates of abatement may be tendered by the payee or transferee thereof to the treasurer of state, or to the commissioner on behalf of the treasurer, as payment, to the extent of the amount thereof, of any tax payable to the treasurer of state.

(C) Exercising the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(D) Exercising the authority provided by law relative to the use of alternative tax bases by taxpayers in the making of personal property tax returns;

(E) Exercising the authority provided by law relative to authorizing the prepayment of taxes on retail sales of tangible personal property or on the storage, use, or consumption of personal property, and waiving the collection of such taxes from the consumers;

(F) Exercising the authority provided by law to revoke licenses;

(G) Maintaining a continuous study of the practical operation of all taxation and revenue laws of the state, the manner in which and extent to which such laws provide revenues for the support of the state and its political subdivisions, the probable effect upon such revenue of possible changes in existing laws, and the possible enactment of measures providing for other forms of taxation. For this purpose the commissioner may establish and maintain a division of research and statistics, and may appoint necessary employees who shall be in the unclassified civil service; the results of such study shall be available to the members of the general assembly and the public.

(H) Making all tax assessments, valuations, findings, determinations, computations, and orders the department of taxation is by law authorized and required to make and, pursuant to time limitations provided by law, on the commissioner's own motion, reviewing, redetermining, or correcting any tax assessments, valuations, findings, determinations, computations, or orders the commissioner has made, but the commissioner shall not review, redetermine, or correct any tax assessment, valuation, finding, determination, computation, or order which the commissioner has made as to which an appeal or application for rehearing, review, redetermination, or correction has been filed with the board of tax appeals, unless such appeal or application is withdrawn by the appellant or applicant or dismissed;

(I) Appointing not more than five deputy tax commissioners, who, under such regulations as the rules of the department of taxation prescribe, may act for the commissioner in the performance of such duties as the commissioner prescribes in the administration of the laws which the commissioner is authorized and required to administer, and who shall serve in the unclassified civil service at the pleasure of the commissioner, but if a person who holds a position in the classified service is

appointed, it shall not affect the civil service status of such person. The commissioner may designate not more than two of the deputy commissioners to act as commissioner in case of the absence, disability, or recusal of the commissioner or vacancy in the office of commissioner. The commissioner may adopt rules relating to the order of precedence of such designated deputy commissioners and to their assumption and administration of the office of commissioner.

(J) Appointing and prescribing the duties of all other employees of the department of taxation necessary in the performance of the work of the department which the tax commissioner is by law authorized and required to perform, and creating such divisions or sections of employees as, in the commissioner's judgment, is proper;

(K) Organizing the work of the department, which the commissioner is by law authorized and required to perform, so that, in the commissioner's judgment, an efficient and economical administration of the laws will result;

(L) Maintaining a journal, which is open to public inspection, in which the tax commissioner shall keep a record of all final determinations of the commissioner;

(M) Adopting and promulgating, in the manner provided by section 5703.14 of the Revised Code, all rules of the department, including rules for the administration of sections 3517.16, 3517.17, and 5747.081 of the Revised Code;

(N) Destroying any or all returns or assessment certificates in the manner authorized by law;

(O) Adopting rules, in accordance with division (B) of section 325.31 of the Revised Code, governing the expenditure of moneys from the real estate assessment fund under that division.

Sec. 5705.08. On or before the first Monday in May of each year, the fiscal officer of each subdivision ~~that is not a~~, except school ~~district~~ districts and the city of Cincinnati, shall certify to its taxing authority the amount necessary to provide for the payment of final judgments against the subdivision, except in condemnation of property cases. The taxing authority shall place such certified amount in each budget and in the annual appropriation measure for the full amount certified.

On or before the first Monday in November of each year, the fiscal officer of the city of Cincinnati and of each school district shall certify to its ~~board of education~~ taxing authority the amount necessary to provide for the payment of final judgments against the ~~district~~ subdivision, except in condemnation of property cases. The ~~board of education~~ taxing authority shall place such certified amount in each budget and in the annual appropriation measure for the full amount certified.

Sec. 5705.19. This section does not apply to school districts or county school financing districts.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code

shall not exceed two mills and that the total levy for current expenses of a combined district organized under sections 2151.65 and 2152.41 of the Revised Code shall not exceed four mills;

(B) For the payment of debt charges on certain described bonds, notes, or certificates of indebtedness of the subdivision issued subsequent to January 1, 1925;

(C) For the debt charges on all bonds, notes, and certificates of indebtedness issued and authorized to be issued prior to January 1, 1925;

(D) For a public library of, or supported by, the subdivision under whatever law organized or authorized to be supported;

(E) For a municipal university, not to exceed two mills over the limitation of one mill prescribed in section 3349.13 of the Revised Code;

(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue;

(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships;

(H) For parks and recreational purposes;

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the

purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company;

(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, or the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, or the provision of ambulance or emergency medical services operated by a police department;

(K) For the maintenance and operation of a county home or detention facility;

(L) For community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code;

(M) For regional planning;

(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;

(P) For maintaining and operating sewage disposal plants and facilities;

(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;

(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(S) For the prevention, control, and abatement of air pollution;

(T) For maintaining and operating cemeteries;

(U) For providing ambulance service, emergency medical service, or both;

(V) For providing for the collection and disposal of garbage or refuse, including yard waste;

(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;

(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;

(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;

(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;

(AA) For the maintenance and operation of a free public

museum of art, science, or history;

(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;

(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.

(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;

(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;

(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;

(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section 505.263 of the Revised Code in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement;

(HH) For a board of township trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. Except as otherwise provided in this division, land that previously has been acquired in a township for these greenspace purposes may subsequently be used for recreational purposes if the board of township trustees adopts a resolution approving that use and no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. The authorization to use greenspace land for recreational use does not apply to land located in a township that had a population, at the time it passed its first greenspace levy, of more than thirty-eight thousand within a county that had a population, at that time, of at least eight hundred sixty thousand.

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit corporation or association under section 307.62 of the Revised Code;

(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a township.

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties.

(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code;

(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code;

(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county.

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements;

(PP) For both of the purposes set forth in divisions (G) and (OO) of this section.

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township.

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.

(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.

(TT) For the maintenance and operation of a facility that is organized in whole or in part to promote the sciences and natural history under section 307.761 of the Revised Code.

(UU) For the creation and operation of a county land

reutilization corporation and for any programs or activities of the corporation found by the board of directors of the corporation to be consistent with the purposes for which the corporation is organized;

(VV) For construction and maintenance of improvements and expenses of soil and water conservation district programs under Chapter 1515. of the Revised Code;

(WW) For the Ohio cooperative extension service fund created under section 3335.35 of the Revised Code for the purposes prescribed under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.

(XX) For a municipal corporation that withdraws or proposes by resolution to withdraw from a regional transit authority under section 306.55 of the Revised Code to provide transportation services for the movement of persons within, from, or to the municipal corporation.

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of years may be any number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt

charges, the increased rate shall be for the life of the indebtedness.

(2) When the additional rate is for any of the following, the increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2151.65 and 2152.41 of the Revised Code;

(b) For providing a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or under both of those sections.

(3) When the additional rate is for either of the following, the increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or (KK) of this section;

(b) For the maintenance and operation of a joint recreation district.

(4) When the increase is for the purpose or purposes set forth in division (D), (G), (H), (CC), or (PP) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution.

(5) When the additional rate is for the purpose described in division (Z) of this section, the increased rate shall be for any number of years not exceeding ten.

A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this

section may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount.

A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2151.65 and 2152.41 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for the current expenses and the other purpose or purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

A resolution adopted by the legislative authority of a municipal corporation that is for the purpose in division (XX) of this section may be combined with the purpose provided in section 306.55 of the Revised Code, by vote of two-thirds of all members

of the legislative authority. The legislative authority may certify the resolution to the board of elections as a combined question. The question appearing on the ballot shall be as provided in section 5705.252 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

When the electors of a subdivision have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

Sec. 5705.25. (A) A copy of any resolution adopted as provided in section 5705.19 or 5705.2111 of the Revised Code shall be certified by the taxing authority to the board of elections of the proper county not less than ninety days before the general election in any year, and the board shall submit the proposal to the electors of the subdivision at the succeeding November election. Except as otherwise provided in this division, a resolution to renew an existing levy, regardless of the section of the Revised Code under which the tax was imposed, shall not be placed on the ballot unless the question is submitted at the general election held during the last year the tax to be renewed or replaced may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year. The limitation of the foregoing sentence does not apply to a resolution to renew and increase or to renew part of an existing levy that was imposed under section 5705.191 of the Revised Code to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: for public assistance, human or social services, relief, welfare,

hospitalization, health, and support of general hospitals. The limitation of the second preceding sentence also does not apply to a resolution that proposes to renew two or more existing levies imposed under section 5705.21 of the Revised Code, in which case the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on that tax list and duplicate.

The board shall make the necessary arrangements for the submission of such questions to the electors of such subdivision, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in such subdivision for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, the proposed increase in rate expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, the number of years during which the increase will be in effect, the first month and year in which the tax will be levied, and the time and place of the election.

(B) The form of the ballots cast at an election held pursuant to division (A) of this section shall be as follows:

"An additional tax for the benefit of (name of subdivision or

public library) ..... for the purpose of (purpose stated in the resolution) ..... at a rate not exceeding ..... mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) ..... for each one hundred dollars of valuation, for ..... (life of indebtedness or number of years the levy is to run).

	For the Tax Levy
	Against the Tax Levy

"

(C) If the levy is to be in effect for a continuing period of time, the notice of election and the form of ballot shall so state instead of setting forth a specified number of years for the levy.

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to run, the phrase ", commencing in ..... (first year the tax is to be levied), first due in calendar year ..... (first calendar year in which the tax shall be due)."

If the levy submitted is a proposal to renew, increase, or decrease an existing levy, the form of the ballot specified in division (B) of this section may be changed by substituting for the words "An additional" at the beginning of the form, the words "A renewal of a" in case of a proposal to renew an existing levy in the same amount; the words "A renewal of ..... mills and an increase of ..... mills to constitute a" in the case of an increase; or the words "A renewal of part of an existing levy, being a reduction of ..... mills, to constitute a" in the case of a decrease in the proposed levy.

If the levy submitted is a proposal to renew two or more existing levies imposed under section 5705.21 of the Revised Code,

the form of the ballot specified in division (B) of this section shall be modified by substituting for the words "an additional tax" the words "a renewal of ....(insert the number of levies to be renewed) existing taxes."

If the levy submitted is a levy under section 5705.72 of the Revised Code or a proposal to renew, increase, or decrease an existing levy imposed under that section, the name of the subdivision shall be "the unincorporated area of ..... (name of township)."

The question covered by such resolution shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

(D) A levy voted in excess of the ten-mill limitation under this section shall be certified to the tax commissioner. In the first year of the levy, it shall be extended on the tax lists after the February settlement succeeding the election. If the additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the taxing authority, who shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax lists for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.252. (A) If the legislative authority of a municipal corporation adopts a resolution for the purposes provided in section 306.55 of the Revised Code and division (XX) of section 5705.19 of the Revised Code and certifies the resolution to the board of elections as a combined question, the

question appearing on the ballot shall read:

"Shall the territory within the ..... (name of municipal corporation) be withdrawn from ..... (name of regional transit authority) and shall an additional tax be levied for the benefit of ..... (name of municipal corporation) ..... for the purpose of providing transportation services for the movement of persons within, from, or to the ..... (name of municipal corporation) at a rate not exceeding ..... mills for each one dollar of valuation, which amounts to ..... (rate expressed in dollars and cents) for each one hundred dollars of valuation, for ..... (number of years the levy is to run)?"

(B) If the board of trustees of a township adopts a resolution for the purposes provided in sections 306.55 and 5705.72 of the Revised Code and certifies the resolution to the board of elections as a combined question, the question appearing on the ballot in the unincorporated area of the township shall read:

"Shall the territory within the unincorporated area of ..... (name of township) be withdrawn from ..... (name of regional transit authority) and shall an additional tax be levied for the benefit of the unincorporated area of ..... (name of township) for the purpose of providing transportation services for the movement of persons within, from, or to the unincorporated area of ..... (name of township) at a rate not exceeding ..... mills for each one dollar of valuation, which amounts to ..... (rate expressed in dollars and cents) for each one hundred dollars of valuation, for ..... (number of years the levy is to run)?

Sec. 5705.28. (A) Except as provided in division (B)(1) or (2) of this section or in section 5705.281 of the Revised Code, the taxing authority of each subdivision or other taxing unit shall adopt a tax budget for the next succeeding fiscal year:

(1) On or before the fifteenth day of January in the case of ~~a~~ school ~~district~~ districts and the city of Cincinnati;

(2) On or before the fifteenth day of July in the case of all other subdivisions and taxing units.

(B)(1) Before the first day of June in each year, the board of trustees of a school library district entitled to participate in any appropriation or revenue of a school district or to have a tax proposed by the board of education of a school district shall file with the board of education of the school district a tax budget for the ensuing fiscal year. On or before the fifteenth day of July in each year, the board of education of a school district to which a school library district tax budget was submitted under this division shall adopt such tax budget on behalf of the library district, but such budget shall not be part of the school district's tax budget.

(2)(a) The taxing authority of a taxing unit that does not levy a tax is not required to adopt a tax budget pursuant to division (A) of this section. Instead, on or before the fifteenth day of July each year, such taxing authority shall adopt an operating budget for the taxing unit for the ensuing fiscal year. The operating budget shall include an estimate of receipts from all sources, a statement of all taxing unit expenses that are anticipated to occur, and the amount required for debt charges during the fiscal year. The operating budget is not required to be filed with the county auditor or the county budget commission.

(b) Except for this section and sections 5705.36, 5705.38, 5705.40, 5705.41, 5705.43, 5705.44, and 5705.45 of the Revised Code, a taxing unit that does not levy a tax is not a taxing unit for purposes of Chapter 5705. of the Revised Code. Documents prepared in accordance with such sections are not required to be filed with the county auditor or county budget commission.

(c) The total appropriations from each fund of a taxing unit that does not levy a tax shall not exceed the total estimated revenue available for expenditures from the fund, and appropriations shall be made from each fund only for the purposes for which the fund is established.

(C)(1) To assist in the preparation of the tax budget, the head of each department, board, commission, and district authority entitled to participate in any appropriation or revenue of a subdivision shall file with the taxing authority, or in the case of a municipal corporation, with its chief executive officer, before the forty-fifth day prior to the date on which the budget must be adopted, an estimate of contemplated revenue and expenditures for the ensuing fiscal year, in such form as is prescribed by the taxing authority of the subdivision or by the auditor of state. The taxing authority shall include in its budget of expenditures the full amounts requested by district authorities, not to exceed the amount authorized by law, if such authorities may fix the amount of revenue they are to receive from the subdivision. In a municipal corporation in which a special levy for a municipal university has been authorized to be levied in excess of the ten-mill limitation, or is required by the charter of the municipal corporation, the taxing authority shall include an amount not less than the estimated yield of such levy, if such amount is requested by the board of directors of the municipal university.

(2) A county board of developmental disabilities may include within its estimate of contemplated revenue and expenditures a reserve balance account in the community developmental disabilities residential services fund. The account shall contain money that is not needed to pay for current expenses for residential services and supported living but will be needed to pay for expenses for such services in the future or may be needed

for unanticipated emergency expenses. On the request of the county board of developmental disabilities, the board of county commissioners shall include such an account in its budget of expenditures and appropriate money to the account from residential service moneys for the county board.

(D) The board of trustees of any public library desiring to participate in the distribution of the county public library fund shall adopt appropriate rules extending the benefits of the library service of such library to all the inhabitants of the county on equal terms, unless such library service is by law available to all such inhabitants, and shall certify a copy of such rules to the taxing authority with its estimate of contemplated revenue and expenditures. Where such rules have been so certified or where the adoption of such rules is not required, the taxing authority shall include in its budget of receipts such amounts as are specified by such board as contemplated revenue from the county public library fund, and in its budget of expenditures the full amounts requested therefrom by such board. No library association, incorporated or unincorporated, is entitled to participate in the proceeds of the county public library fund unless such association both was organized and operating prior to January 1, 1968, and participated in the distribution of the proceeds of the county public library fund prior to December 31, 2005.

Sec. 5705.30. This section does not apply to a subdivision for which the county budget commission has waived the requirement to adopt a tax budget under section 5705.281 of the Revised Code.

In addition to the information required by section 5705.29 of the Revised Code, the budget of each subdivision and school library district shall include such other information as is prescribed by the auditor of state. At least two copies of the

budget shall be filed in the office of the fiscal officer of the subdivision for public inspection not less than ten days before its adoption by the taxing authority, and such taxing authority shall hold at least one public hearing thereon, of which public notice shall be given by at least one publication not less than ten days prior to the date of hearing in the official publication of such subdivision, or in a newspaper having general circulation in the subdivision. The budget, after adoption, shall be submitted to the county auditor on or before the twentieth day of July, or in the case of a school district or the city of Cincinnati, by the twentieth day of January. The tax commissioner may prescribe a later date for the submission of a subdivision's tax budget. Any subdivision that fails to submit its budget to the county auditor on or before the ~~twentieth day of July, unless the commissioner on or before the twentieth day of July prescribes~~ date prescribed by this section or a later date ~~for submission of the budget by that subdivision,~~ prescribed by the commissioner shall not receive an apportionment from the undivided local government fund distribution for the ensuing calendar year~~,~~ unless ~~upon review of the matter~~ the commissioner determines that the budget was adopted by the subdivision on or before the ~~fifteenth~~ fifth day ~~of July~~ before the date prescribed by this section for submitting the budget, but was not submitted ~~to the county auditor~~ by the ~~twentieth day of July~~ date so prescribed or the later time prescribed by the commissioner because of ministerial error by the subdivision or its officers, employees, or other representatives.

Sec. 5705.34. When the budget commission has completed its work with respect to a tax budget or other information required to be provided under section 5705.281 of the Revised Code, it shall certify its action to the taxing authority, together with an estimate by the county auditor of the rate of each tax necessary to be levied by the taxing authority within its subdivision or

taxing unit, and what part thereof is in excess of, and what part within, the ten-mill tax limitation. The certification shall also indicate the date on which each tax levied by the taxing authority will expire.

If a taxing authority levies a tax for a fixed sum of money or to pay debt charges for the tax year for which the tax budget is prepared, and a payment on account of that tax is payable to the taxing authority for the tax year under section 5727.85, 5727.86, 5751.21, or 5751.22 of the Revised Code, the county auditor, when estimating the rate at which the tax shall be levied in the current year, shall estimate the rate necessary to raise the required sum less the estimated amount of any payments made for the tax year to a taxing unit for fixed-sum levies under those sections. The estimated rate shall be the rate of the levy that the budget commission certifies with its action under this section.

Each taxing authority, by ordinance or resolution, shall authorize the necessary tax levies and certify them to the county auditor before the first day of October in each year, or at such later date as is approved by the tax commissioner, except that the certification by <u>the legislative authority of the city of Cincinnati or by</u> a board of education shall be made by the first day of April or at such later date as is approved by the commissioner, and except that a township board of park commissioners that is appointed by the board of township trustees and oversees a township park district that contains only unincorporated territory shall authorize only those taxes approved by, and only at the rate approved by, the board of township trustees as required by division (C) of section 511.27 of the Revised Code. If the levying of a tax to be placed on the duplicate of the current year is approved by the electors of the subdivision under sections 5705.01 to 5705.47 of the Revised Code;

if the rate of a school district tax is increased due to the repeal of a school district income tax and property tax rate reduction at an election held pursuant to section 5748.04 of the Revised Code; or if refunding bonds to refund all or a part of the principal of bonds payable from a tax levy for the ensuing fiscal year are issued or sold and in the process of delivery, the budget commission shall reconsider and revise its action on the budget of the subdivision or school library district for whose benefit the tax is to be levied after the returns of such election are fully canvassed, or after the issuance or sale of such refunding bonds is certified to it.

Sec. 5705.35. (A) The certification of the budget commission to the taxing authority of each subdivision or taxing unit, as set forth in section 5705.34 of the Revised Code, shall show the various funds of such subdivisions other than funds to be created by transfer and shall be filed by the county budget commission with such taxing authority on or before the first day of March in the case of school districts and the city of Cincinnati and on or before the first day of September in each year in the case of all other taxing authorities. There shall be set forth on the credit side of each fund the estimated unencumbered balances and receipts, and if a tax is to be levied for such fund, the estimated revenue to be derived therefrom, the rate of the levy, and what portion thereof is within, and what in excess of, the ten-mill tax limitation, and on the debit side, the total appropriations that may be made therefrom. Subject to division (G) of section 5705.29 of the Revised Code, any reserve balance in an account established under section 5705.13 of the Revised Code for the purpose described in division (A)(1) of that section, and the principal of a nonexpendable trust fund established under section 5705.131 of the Revised Code and any additions to principal arising from sources other than the reinvestment of investment

earnings arising from that fund, are not unencumbered balances for the purposes of this section. The balance in a reserve balance account established under section 5705.132 of the Revised Code is not an unencumbered balance for the purposes of this division.

There shall be attached to the certification a summary, which shall be known as the "official certificate of estimated resources," that shall state the total estimated resources of each fund of the subdivision that are available for appropriation in the fiscal year, other than funds to be created by transfer, and a statement of the amount of the total tax duplicate of the school district to be used in the collection of taxes for the following calendar year. Before the end of the fiscal year, the taxing authority of each subdivision and other taxing unit shall revise its tax budget, if one was adopted, so that the total contemplated expenditures from any fund during the ensuing fiscal year will not exceed the total appropriations that may be made from such fund, as determined by the budget commission in its certification; and such revised budget shall be the basis of the annual appropriation measure.

(B)(1) Except as otherwise provided in division (B)(2) of this section, revenues from real property taxes scheduled to be settled on or before the tenth day of August and the fifteenth day of February of a fiscal year under divisions (A) and (C) of section 321.24 of the Revised Code, and revenue from taxes levied on personal property used in business scheduled to be settled on or before the thirty-first day of October and the thirtieth day of June of a fiscal year under divisions (B) and (D) of section 321.24 of the Revised Code shall not be available for appropriation by a board of education prior to the fiscal year in which such latest scheduled settlement date occurs, except that moneys advanced to the treasurer of a board of education under division (A)(2)(b) of section 321.34 of the Revised Code shall be

available for appropriation in the fiscal year in which they are paid to the treasurer under such section. If the date for any settlement of taxes is extended under division (E) of section 321.24 of the Revised Code, the latest date set forth in divisions (A) to (D) of that section shall be used to determine in which fiscal year the revenues are first available for appropriation.

(2) Revenues available for appropriation by a school district during a fiscal year may include amounts borrowed in that fiscal year under section 133.301 of the Revised Code in anticipation of the collection of taxes that are to be included in the settlements made under divisions (C) and (D) of section 321.24 of the Revised Code in the ensuing fiscal year.

Sec. 5705.38. (A) This division does not apply to school district appropriation measures. On or about the first day of each fiscal year, the taxing authority of each subdivision or other taxing unit shall pass an appropriation measure, and thereafter during the year it may pass any supplemental appropriation measures as it finds necessary, based on the revised tax budget or the official certificate of estimated resources or amendments of the certificate. If it desires to postpone the passage of the annual appropriation measure until an amended certificate is received based on the actual balances, it may pass a temporary appropriation measure for meeting the ordinary expenses of the taxing unit until no later than the first day of April or, in the case of the city of Cincinnati, the first day of October, of the current year, and the appropriations made in the temporary measure shall be chargeable to the appropriations in the annual appropriation measure for that fiscal year when passed.

(B) A board of education shall pass its annual appropriation measure by the first day of October. If, by the first day of October, a board has not received either the amended certificates

of estimated resources required by division (B) of section 5705.36 of the Revised Code or certifications that no amended certificates need be issued, the adoption of the annual appropriation measure shall be delayed until the amended certificates or certifications are received. Prior to the passage of the annual appropriation measure, the board may pass a temporary appropriation measure for meeting the ordinary expenses of the district until it passes an annual appropriation measure, and appropriations made in the temporary measure shall be chargeable to the appropriations in the annual appropriation measure for that fiscal year when passed. During the fiscal year and after the passage of the annual appropriation measure, a district may pass any supplemental appropriation measures as it finds necessary, based on the revised tax budget or the official certificate of estimated resources or amendments of the certificate. School district appropriation measures shall be in the form as the auditor of state, after consultation with the tax commissioner, prescribes.

(C) Appropriation measures shall be classified so as to set forth separately the amounts appropriated for each office, department, and division, and, within each, the amount appropriated for personal services. In the case of a municipal university, the board of directors of which have assumed, in the manner provided by law, custody and control of the funds of the university, funds shall be appropriated as a lump sum for the use of the university.

Sec. 5705.72. (A) As used in this section and in section 5705.25 of the Revised Code with regard to a levy submitted under this section, "electors" means electors of the unincorporated area of a township.

(B) The board of trustees of any township that withdraws or proposes by resolution to withdraw the unincorporated area of the

township from a regional transit authority under section 306.55 of the Revised Code, by vote of two-thirds of all the members of the board of trustees, may declare by resolution that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide transportation services to the unincorporated area of the township and that it is necessary to levy a tax in excess of that limitation within the unincorporated area of that township for the purpose of providing transportation services for the movement of persons within, from, or to the unincorporated area of that township.

The resolution shall specify the necessary amount of the increase in rate to levy, the purpose of such increase, and the number of years, not exceeding ten, during which the rate increase shall be in effect, which may or may not include a levy upon the tax list of the current year.

The resolution shall be submitted to the proper county board of elections not less than ninety days before the date of the election at which the question will appear on the ballot and in the manner provided by section 5705.25 of the Revised Code, except that the question may be submitted to electors at a general election or a special election held on a date consistent with section 3501.01 of the Revised Code.

A resolution adopted by the board of trustees of a township under this section may be combined with a resolution for the withdrawal of the unincorporated area of the township from a regional transit authority as provided in section 306.55 of the Revised Code, by vote of two-thirds of all members of the board. The board may certify the combined resolution to the board of elections as a combined question. The question appearing on the ballot shall be as provided in section 5705.252 of the Revised Code.

When electors have approved a tax levy under this section,

the board of township trustees may anticipate a fraction of the proceeds of the levy and issue anticipation notes as authorized by section 5705.191 of the Revised Code for a current expense levy with a fixed term, and may anticipate the collection of current revenue under section 133.10 of the Revised Code.

Sec. 5709.084. Real and personal property comprising a convention center that is constructed or, in the case of personal property, acquired, after January 1, 2010, are exempt from taxation if the convention center is located in a county having a population, when construction of the convention center commences, of more than one million two hundred thousand according to the most recent federal decennial census, and if the convention center, or the land upon which the convention center is situated, is owned or leased by the county. For the purposes of this section, construction of the convention center commences upon the earlier of issuance of debt to finance all or a portion of the convention center, demolition of existing structures on the site, or grading of the site in preparation for construction.

Real and personal property comprising a convention center owned by the largest city in a county having a population greater than seven hundred thousand but less than nine hundred thousand according to the most recent federal decennial census is exempt from taxation, regardless of whether the property is leased to or otherwise operated or managed by a person other than the city.

Real and personal property comprising a convention center owned by a convention facilities authority in a county having a population greater than one million according to the most recent federal decennial census is exempt from taxation, regardless of whether the property is leased to or otherwise operated or managed by a person other than the convention facilities authority.

As used in this section, "convention center" has the same

meaning as in section 307.695 of the Revised Code.

Sec. 5709.12. (A) As used in this section, "independent living facilities" means any residential housing facilities and related property that are not a nursing home, residential care facility, or ~~adult care~~ residential facility as defined in division (A) of section 5701.13 of the Revised Code.

(B) Lands, houses, and other buildings belonging to a county, township, or municipal corporation and used exclusively for the accommodation or support of the poor, or leased to the state or any political subdivision for public purposes shall be exempt from taxation. Real and tangible personal property belonging to institutions that is used exclusively for charitable purposes shall be exempt from taxation, including real property belonging to an institution that is a nonprofit corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year and being held for leasing or resale to others. If, at any time during a tax year for which such property is exempted from taxation, the corporation ceases to qualify for such a grant, the director of development shall notify the tax commissioner, and the tax commissioner shall cause the property to be restored to the tax list beginning with the following tax year. All property owned and used by a nonprofit organization exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, also shall be exempt from taxation.

(C)(1) If a home for the aged described in division (B)(1) of section 5701.13 of the Revised Code is operated in conjunction with or at the same site as independent living facilities, the exemption granted in division (B) of this section shall include kitchen, dining room, clinic, entry ways, maintenance and storage areas, and land necessary for access commonly used by both

residents of the home for the aged and residents of the independent living facilities. Other facilities commonly used by both residents of the home for the aged and residents of independent living units shall be exempt from taxation only if the other facilities are used primarily by the residents of the home for the aged. Vacant land currently unused by the home, and independent living facilities and the lands connected with them are not exempt from taxation. Except as provided in division (A)(1) of section 5709.121 of the Revised Code, property of a home leased for nonresidential purposes is not exempt from taxation.

(2) Independent living facilities are exempt from taxation if they are operated in conjunction with or at the same site as a home for the aged described in division (B)(2) of section 5701.13 of the Revised Code; operated by a corporation, association, or trust described in division (B)(1)(b) of that section; operated exclusively for the benefit of members of the corporation, association, or trust who are retired, aged, or infirm; and provided to those members without charge in consideration of their service, without compensation, to a charitable, religious, fraternal, or educational institution. For the purposes of division (C)(2) of this section, "compensation" does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

(D)(1) A private corporation established under federal law, defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as amended, the objects of which include encouraging the advancement of science generally, or of a particular branch of science, the promotion of scientific research, the improvement of the qualifications and usefulness of scientists, or the increase and diffusion of scientific knowledge is conclusively presumed to be a charitable or educational institution. A private corporation

established as a nonprofit corporation under the laws of a state, that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and has as its principal purpose one or more of the foregoing objects, also is conclusively presumed to be a charitable or educational institution.

The fact that an organization described in this division operates in a manner that results in an excess of revenues over expenses shall not be used to deny the exemption granted by this section, provided such excess is used, or is held for use, for exempt purposes or to establish a reserve against future contingencies; and, provided further, that such excess may not be distributed to individual persons or to entities that would not be entitled to the tax exemptions provided by this chapter. Nor shall the fact that any scientific information diffused by the organization is of particular interest or benefit to any of its individual members be used to deny the exemption granted by this section, provided that such scientific information is available to the public for purchase or otherwise.

(2) Division (D)(2) of this section does not apply to real property exempted from taxation under this section and division (A)(3) of section 5709.121 of the Revised Code and belonging to a nonprofit corporation described in division (D)(1) of this section that has received a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code during any of the tax years the property was exempted from taxation.

When a private corporation described in division (D)(1) of this section sells all or any portion of a tract, lot, or parcel of real estate that has been exempt from taxation under this section and section 5709.121 of the Revised Code, the portion sold shall be restored to the tax list for the year following the year

of the sale and, except in connection with a sale and transfer of such a tract, lot, or parcel to a county land reutilization corporation organized under Chapter 1724. of the Revised Code, a charge shall be levied against the sold property in an amount equal to the tax savings on such property during the four tax years preceding the year the property is placed on the tax list. The tax savings equals the amount of the additional taxes that would have been levied if such property had not been exempt from taxation.

The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law. The charge may also be remitted for all or any portion of such property that the tax commissioner determines is entitled to exemption from real property taxation for the year such property is restored to the tax list under any provision of the Revised Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, upon an application for exemption covering the year such property is restored to the tax list filed under section 5715.27 of the Revised Code.

(E) Real property held by an organization organized and operated exclusively for charitable purposes as described under section 501(c)(3) of the Internal Revenue Code and exempt from federal taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose of constructing or rehabilitating residences for eventual transfer to qualified low-income families through sale, lease, or land installment contract, shall be exempt from taxation.

The exemption shall commence on the day title to the property is transferred to the organization and shall continue to the end of the tax year in which the organization transfers title to the

property to a qualified low-income family. In no case shall the exemption extend beyond the second succeeding tax year following the year in which the title was transferred to the organization. If the title is transferred to the organization and from the organization to a qualified low-income family in the same tax year, the exemption shall continue to the end of that tax year. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the tax year in which title is transferred to the organization shall be remitted by the county auditor for each day of the year that title is held by the organization.

Upon transferring the title to another person, the organization shall file with the county auditor an affidavit affirming that the title was transferred to a qualified low-income family or that the title was not transferred to a qualified low-income family, as the case may be; if the title was transferred to a qualified low-income family, the affidavit shall identify the transferee by name. If the organization transfers title to the property to anyone other than a qualified low-income family, the exemption, if it has not previously expired, shall terminate, and the property shall be restored to the tax list for the year following the year of the transfer and a charge shall be levied against the property in an amount equal to the amount of additional taxes that would have been levied if such property had not been exempt from taxation. The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law.

The application for exemption shall be filed as otherwise required under section 5715.27 of the Revised Code, except that the organization holding the property shall file with its application documentation substantiating its status as an

organization organized and operated exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code and its qualification for exemption from federal taxation under section 501(a) of the Internal Revenue Code, and affirming its intention to construct or rehabilitate the property for the eventual transfer to qualified low-income families.

As used in this division, "qualified low-income family" means a family whose income does not exceed two hundred per cent of the official federal poverty guidelines as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family whose income is being determined.

(F) Real property held by a county land reutilization corporation organized under Chapter 1724. of the Revised Code shall be exempt from taxation. Notwithstanding section 5715.27 of the Revised Code, a county land reutilization corporation is not required to apply to any county or state agency in order to qualify for the exemption.

The exemption shall commence on the day title to the property is transferred to the corporation and shall continue to the end of the tax year in which the instrument transferring title from the corporation to another owner is recorded, if the use to which the other owner puts the property does not qualify for an exemption under this section or any other section of the Revised Code. If the title to the property is transferred to the corporation and from the corporation in the same tax year, the exemption shall continue to the end of that tax year. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the tax year in which title is transferred to the corporation shall be remitted by the county auditor for each day of the year that title is held by the corporation.

Upon transferring the title to another person, the corporation shall file with the county auditor an affidavit affirming that the title was transferred to such other person and shall identify the transferee by name. If the corporation transfers title to the property to anyone that does not qualify or the use to which the property is put does not qualify the property for an exemption under this section or any other section of the Revised Code, the exemption, if it has not previously expired, shall terminate, and the property shall be restored to the tax list for the year following the year of the transfer. A charge shall be levied against the property in an amount equal to the amount of additional taxes that would have been levied if such property had not been exempt from taxation. The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law.

In lieu of the application for exemption otherwise required to be filed as required under section 5715.27 of the Revised Code, a count land reutilization corporation holding the property shall, upon the request of any county or state agency, submit its articles of incorporation substantiating its status as a county land reutilization corporation.

Sec. 5709.121. (A) Real property and tangible personal property belonging to a charitable or educational institution or to the state or a political subdivision, shall be considered as used exclusively for charitable or public purposes by such institution, the state, or political subdivision, if it meets one of the following requirements:

(1) It is used by such institution, the state, or political subdivision, or by one or more other such institutions, the state, or political subdivisions under a lease, sublease, or other

contractual arrangement:

(a) As a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein;

(b) For other charitable, educational, or public purposes.

(2) It is made available under the direction or control of such institution, the state, or political subdivision for use in furtherance of or incidental to its charitable, educational, or public purposes and not with the view to profit.

(3) It is used by an organization described in division (D) of section 5709.12 of the Revised Code. If the organization is a corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year, "used," for the purposes of this division, includes holding property for lease or resale to others.

(B)(1) Property described in division (A)(1)(a) of this section shall continue to be considered as used exclusively for charitable or public purposes even if the property is conveyed through one conveyance or a series of conveyances to an entity that is not a charitable or educational institution and is not the state or a political subdivision, provided that all of the following conditions apply with respect to that property:

(a) The property has been listed as exempt on the county auditor's tax list and duplicate for the county in which it is located for the ten tax years immediately preceding the year in which the property is conveyed through one conveyance or a series of conveyances;

(b) The ~~owner to which the~~ property is conveyed through one conveyance or a series of conveyances ~~leases~~ to an owner that does any of the following:

(i) Leases the property through one lease or a series of leases to the entity that owned or occupied the property for the ten tax years immediately preceding the year in which the property is conveyed or to an affiliate of ~~such prior owner or occupant~~ that entity;

(ii) Contracts to have renovations performed as described in division (B)(1)(d) of this section and is at least partially owned by a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of that code.

(c) The property includes improvements that are at least fifty years old;

(d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law;

(e) The property continues to be used for the purposes described in division (A)(1)(a) of this section after its conveyance; and

(f) The property is certified by the United States secretary of the interior as a "certified historic structure" or certified as part of a certified historic structure.

(2) Notwithstanding section 5715.27 of the Revised Code, an application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or its occupant.

(C) For purposes of this section, an institution that meets all of the following requirements is conclusively presumed to be a charitable institution:

(1) The institution is a nonprofit corporation or association, no part of the net earnings of which inures to the

benefit of any private shareholder or individual;

(2) The institution is exempt from federal income taxation under section 501(a) of the Internal Revenue Code;

(3) The majority of the institution's board of directors are appointed by the mayor or legislative authority of a municipal corporation or a board of county commissioners, or a combination thereof;

(4) The primary purpose of the institution is to assist in the development and revitalization of downtown urban areas.

Sec. 5709.212. (A) With every application for an exempt facility certificate filed pursuant to section 5709.21 of the Revised Code, the applicant shall pay a fee equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars. One-half of the fee received with applications for exempt facility certificates shall be credited to the exempt facility administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering sections 5709.20 to 5709.27 of the Revised Code. If the director of environmental protection is required to provide the opinion for an application, one-half of the fee shall be credited to the <u>non-Title V</u> clean air fund created in section 3704.035 of the Revised Code for use in administering section 5709.211 of the Revised Code, unless the application is for an industrial water pollution control facility. If the application is for an industrial water pollution control facility, one-half of the fee shall be credited to the surface water protection fund created in section 6111.038 of the Revised Code for use in administering section 5709.211 of the Revised Code. If the director of development is required to provide the opinion for an application, one-half of the fee for each exempt facility application shall be credited to the exempt facility

inspection fund, which is hereby created in the state treasury, for appropriation to the department of development for use in administering section 5709.211 of the Revised Code.

An applicant is not entitled to any tax exemption under section 5709.25 of the Revised Code until the fee required by this section is paid. The fee required by this section is not refundable, and is due with the application for an exempt facility certificate even if an exempt facility certificate ultimately is not issued or is withdrawn. Any application submitted without payment of the fee shall be deemed incomplete until the fee is paid.

(B) The application fee imposed under division (A) of this section for a jointly owned facility shall be equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars for each facility that is the subject of the application.

Sec. 5709.43. (A) A municipal corporation that grants a tax exemption under section 5709.40 of the Revised Code shall establish a municipal public improvement tax increment equivalent fund into which shall be deposited service payments in lieu of taxes distributed to the municipal corporation under section 5709.42 of the Revised Code. If the legislative authority of the municipal corporation has adopted an ordinance under division (C) of section 5709.40 of the Revised Code, the municipal corporation shall establish at least one account in that fund with respect to ordinances adopted under division (B) of that section, and one account with respect to each incentive district created in an ordinance adopted under division (C) of that section. If an ordinance adopted under division (C) of section 5709.40 of the Revised Code also authorizes the use of service payments for housing renovations within the district, the municipal corporation

shall establish separate accounts for the service payments designated for public infrastructure improvements and for the service payments authorized for the purpose of housing renovations. Money in an account of the municipal public improvement tax increment equivalent fund shall be used to finance the public infrastructure improvements designated in, or the housing renovations authorized by, the ordinance with respect to which the account is established; in the case of an account established with respect to an ordinance adopted under division (C) of that section, money in the account shall be used to finance the public infrastructure improvements designated, or the housing renovations authorized, for each incentive district created in the ordinance. Money in an account shall not be used to finance or support housing renovations that take place after the incentive district has expired. The municipal corporation also may deposit into any of those accounts municipal income tax revenue that has been designated by ordinance to finance the public infrastructure improvements and housing renovations.

(B) A municipal corporation may establish an urban redevelopment tax increment equivalent fund, by resolution or ordinance of its legislative authority, into which shall be deposited service payments in lieu of taxes distributed to the municipal corporation by the county treasurer as provided in section 5709.42 of the Revised Code for improvements exempt from taxation pursuant to an ordinance adopted under section 5709.41 of the Revised Code. Moneys deposited in the urban redevelopment tax increment equivalent fund shall be used for such purposes as are authorized in the resolution or ordinance establishing the fund. The municipal corporation also may deposit into the urban redevelopment tax increment equivalent fund municipal income tax revenue that has been dedicated to fund any of the purposes for which the fund is established.

(C)(1)(a) A municipal corporation may distribute money in the municipal public improvement tax increment equivalent fund or the urban redevelopment tax increment equivalent fund to any school district in which the exempt property is located, in an amount not to exceed the amount of real property taxes that such school district would have received from the improvement if it were not exempt from taxation, or use money in either or both funds to finance specific public improvements benefiting the school district. The resolution or ordinance establishing the fund shall set forth the percentage of such maximum amount that will be distributed to any affected school district or used to finance specific public improvements benefiting the school district.

(b) A municipal corporation also may distribute money in the municipal public improvement tax increment equivalent fund or the urban redevelopment tax increment equivalent fund as follows:

(i) To a board of county commissioners, in the amount that is owed to the board pursuant to division (E) of section 5709.40 of the Revised Code;

(ii) To a county in accordance with section 5709.913 of the Revised Code.

(2) Money from an account in a municipal public improvement tax increment equivalent fund or from an urban redevelopment tax increment equivalent fund may be distributed under division (C)(1)(b) of this section, regardless of the date a resolution or an ordinance was adopted under section 5709.40 or 5709.41 of the Revised Code that prompted the establishment of the account or the establishment of the urban redevelopment tax increment equivalent fund, even if the resolution or ordinance was adopted prior to ~~the effective date of this amendment~~ March 30, 2006.

(D)(1) A municipal corporation may use surplus money in the municipal public improvement tax increment equivalent fund or an

account of that fund, or in the urban redevelopment tax increment equivalent fund, to repay a loan or provide matching funds for a grant awarded to the municipal corporation under the local government innovation program created in section 189.02 of the Revised Code.

(2) Any incidental surplus remaining in the municipal public improvement tax increment equivalent fund or an account of that fund, or in the urban redevelopment tax increment equivalent fund, upon dissolution of the account or fund shall be used as provided in division (D)(1) of this section or transferred to the general fund of the municipal corporation.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and

shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement

and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before October 15, ~~2012~~ 2013, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property

constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to

exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education,

by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has

adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2012~~ 2013, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and

hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this

section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into

under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the

application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before October 15, ~~2012~~ 2013, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed

fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by

the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2012~~ 2013, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for

existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this

section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more

temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than

one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or

municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15, ~~2012~~ 2013, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to

establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the

legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed

while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.73. (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the township for the preceding tax year. The district shall be located within the unincorporated area of the township and shall not include any territory that is

included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. A resolution may create more than one district, and more than one resolution may be adopted under division (C)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under division (C)(1) of this section, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution.

(3)(a) A resolution adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.74 of the Revised Code and received by the township under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the board of township trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The notice regarding improvements made under division (C) of this section to parcels within an incentive district shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified

in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

The board of education shall certify its resolution to the board of township trustees not later than fourteen days prior to the date the board of township trustees intends to adopt the resolution as indicated in the notice. If the board of education and the board of township trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of township trustees within the time prescribed by this section, the board of township trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the

case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of township trustees. If a mutually acceptable compensation agreement is negotiated between the board of township trustees and the board of education, including agreements for payments in lieu of taxes under section 5709.74 of the Revised Code, the board of township trustees shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (D) of this section. If a board of education has adopted a resolution allowing a board of township trustees to deliver the notice required under division (D) of this section fewer than forty-five business days prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to the adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds the resolution, it shall certify notice of the

rescission to the board of township trustees.

If the board of township trustees is not required by division (D) of this section to notify the board of education of the board of township trustees' intent to declare improvements to be a public purpose, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive the notice.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county

commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide compensation to the board of county commissioners of fifty per

cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.74 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code

for alcohol, drug addiction, and mental health services or families;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or

specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or

undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure

improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on private property, or stormwater and flood remediation projects may do so provided that the board currently is a party to a hold-harmless agreement with the board of education of the city, local, or exempted village school district within the territory of which are located the parcels that are subject to an exemption. For the purposes of this division, a "hold-harmless agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

(L) With respect to improvements resulting from projects, for which construction commences on or after April 1, 2012, and on or before December 31, 2013, and for which an exemption has been or will be sought pursuant to a resolution adopted under this section before December 14, 2001, "property used or to be used for residential purposes," as used in division (A)(2) of this section, means only that property that, as improved, the tax commissioner would classify as residential land and improvements pursuant to rules adopted by the tax commissioner under section 5713.041 of the Revised Code.

Sec. 5709.75. (A) Any township that receives service payments in lieu of taxes under section 5709.74 of the Revised Code shall establish a township public improvement tax increment equivalent fund into which those payments shall be deposited. If the board of township trustees has adopted a resolution under division (C) of section 5709.73 of the Revised Code, the township shall establish at least one account in that fund with respect to resolutions

adopted under division (B) of that section, and one account with respect to each incentive district created by a resolution adopted under division (C) of that section. If a resolution adopted under division (C) of section 5709.73 of the Revised Code also authorizes the use of service payments for housing renovations within the incentive district, the township shall establish separate accounts for the service payments designated for public infrastructure improvements and for the service payments authorized for the purpose of housing renovations.

(B) Except as otherwise provided in division (C) or (D) of this section, money deposited in an account of the township public improvement tax increment equivalent fund shall be used by the township to pay the costs of public infrastructure improvements designated in or the housing renovations authorized by the resolution with respect to which the account is established, including any interest on and principal of the notes; in the case of an account established with respect to a resolution adopted under division (C) of that section, money in the account shall be used to finance the public infrastructure improvements designated, or the housing renovations authorized, for each incentive district created in the resolution. Money in an account shall not be used to finance or support housing renovations that take place after the incentive district has expired.

(C)(1)(a) A township may distribute money in such an account to any school district in which the exempt property is located in an amount not to exceed the amount of real property taxes that such school district would have received from the improvement if it were not exempt from taxation. The resolution establishing the fund shall set forth the percentage of such maximum amount that will be distributed to any affected school district.

(b) A township also may distribute money in such an account as follows:

(i) To a board of county commissioners, in the amount that is owed to the board pursuant to division (E) of section 5709.73 of the Revised Code;

(ii) To a county in accordance with section 5709.913 of the Revised Code.

(2) Money from an account in a township public improvement tax increment equivalent fund may be distributed under division (C)(1)(b) of this section, regardless of the date a resolution was adopted under section 5709.73 of the Revised Code that prompted the establishment of the account, even if the resolution was adopted prior to March 30, 2006.

(D) A board of township trustees that adopted a resolution under division (B) of section 5709.73 of the Revised Code before January 1, 1995, and that, with respect to property exempted under such a resolution, is party to a hold-harmless agreement, may appropriate and expend unencumbered money in the fund to pay current public safety expenses of the township. A township appropriating and expending money under this division shall reimburse the fund for the sum so appropriated and expended not later than the day the exemption granted under the resolution expires. For the purposes of this division, a "hold-harmless agreement" is an agreement with the board of education of a city, local, or exempted village school district under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue the school district would have received from improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

(E)(1) A township may use surplus money in the township public improvement tax increment equivalent fund, or an account of that fund, to repay a loan or provide matching funds for a grant awarded to the township under the local government innovation

program created in section 189.02 of the Revised Code.

(2) Any incidental surplus remaining in the township public improvement tax increment equivalent fund or an account of that fund upon dissolution of the account or fund shall be used as provided in division (E)(1) of this section or transferred to the general fund of the township.

Sec. 5709.80. (A) The board of county commissioners of a county that receives service payments in lieu of taxes under section 5709.79 of the Revised Code shall establish a redevelopment tax equivalent fund into which those payments shall be deposited. Separate accounts shall be established in the fund for each resolution adopted by the board of county commissioners under section 5709.78 of the Revised Code. If the board of county commissioners has adopted a resolution under division (B) of that section, the county shall establish an account for each incentive district created in that resolution. If a resolution adopted under division (B) of section 5709.78 of the Revised Code also authorizes the use of service payments for housing renovations within the incentive district, the county shall establish separate accounts for the service payments designated for public infrastructure improvements and for the service payments authorized for the purpose of housing renovations.

(B) Moneys deposited into each account of the fund shall be used by the county to pay the cost of constructing or repairing the public infrastructure improvements designated in, or the housing renovations authorized by, the resolution, or for each incentive district for which the account is established, to pay the interest on and principal of bonds or notes issued under division (B) of section 307.082 or division (A) of section 5709.81 of the Revised Code, or for the purposes pledged under division (B) of section 5709.81 of the Revised Code. Money in an account

shall not be used to finance or support housing renovations that take place after the incentive district has expired.

(C)(1)(a) The board of county commissioners may distribute money in an account to any school district in which the exempt property is located in an amount not to exceed the amount of real property taxes that such school district would have received from the improvement if it were not exempt from taxation. The resolution under which an account is established shall set forth the percentage of such maximum amount that will be distributed to any affected school district.

(b) A board of county commissioners also may distribute money in such an account as follows:

(i) To a board of township trustees or legislative authority of a municipal corporation, as applicable, in the amount that is owed to the board of township trustees or legislative authority pursuant to division (D) of section 5709.78 of the Revised Code;

(ii) To a township in accordance with section 5709.914 of the Revised Code.

(2) Money from an account in the redevelopment tax equivalent fund may be distributed under division (C)(1)(b) of this section, regardless of the date a resolution was adopted under section 5709.78 of the Revised Code that prompted the establishment of the account, even if the resolution was adopted prior to ~~the effective date of this amendment~~ March 30, 2006.

(D) ~~An account dissolves upon fulfillment of the purposes for which money in the account may be used~~ (1) A county may use surplus money in an account of the redevelopment tax equivalent fund to repay a loan or provide matching funds for a grant awarded to the county under the local government innovation program created in section 189.02 of the Revised Code.

(2) An incidental surplus remaining in an account upon its

dissolution shall be used as provided in division (D)(1) of this section or transferred to the general fund of the county.

Sec. 5713.012. (A) For purposes of this section:

(1) "Mass appraisal project" means any sexennial reappraisal, triennial update, or other revaluation of all real property or the valuation of newly constructed real property in accordance with section 5713.01 of the Revised Code.

(2) "Qualified project manager" means a person who plans, manages, coordinates, and controls the execution of a mass appraisal project under the direction of the county auditor and who has all of the following qualifications:

(a) Has passed a comprehensive final examination that corresponds to a course, approved by the superintendent of real estate and professional licensing, that consists of at least thirty hours of instruction, quizzes, and learning aids. The superintendent shall not approve a course under this division that does not address the following topics in both the instruction and the examination:

(i) Concepts and principles of mass appraisal as they relate to the assessment of real property for the purposes of ad valorem taxation;

(ii) Methods of data collection and data management relative to parcels of real property, including modern alternative data collection methods and currently utilized computer-assisted mass appraisal systems;

(iii) Assessment sales-ratio study including various measures of central tendency, the various measures of dispersion of data about the mean, median, and dollar-weighted mean, and the advantages and disadvantages of various analysis techniques;

(iv) Traditional approaches of property valuation, including

the cost approach, the sales comparison approach, and the income approach, as they are implemented in a mass appraisal project;

(v) Methods and systems for model building and model calibration as related to mass appraisal of real property;

(vi) Methods of production management and project analysis such as Gantt charts, program evaluation and review technique (PERT) charts, frequency distribution charts, line graphs, bar charts, and scatter diagrams, as they are utilized in the mass appraisal area.

(b) Has completed at least seven hours of continuing education courses in mass appraisal during the two-year period immediately succeeding the year in which the person passed the examination required in division (A)(2)(a) of this section, and during each two-year period thereafter.

(B)(1) The county auditor, in acting as the assessor of all real property in the auditor's county for taxation purposes in accordance with section 5713.01 of the Revised Code, shall involve at least one qualified project manager in each mass assessment project that originates more than two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly.

(2) The tax commissioner, beginning two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly, shall not approve any contract entered into by the auditor under division (E) of section 5713.01 of the Revised Code, with a person to do all or any part of the work necessary to the performance of the auditor's duties as assessor unless that person designates an officer or employee of that person, with the appropriate credentials, to act as a qualified project manager.

(3) The tax commissioner, beginning two years after the

effective date of the enactment of this section by H.B. 487 of the 129th general assembly, shall not include any person that has not designated an officer or employee, with the appropriate credentials, to act as a qualified project manager on a list generated by the commissioner for either of the following purposes:

(a) To assist county auditors in selecting a person to do all or any part of the work necessary to the performance of the auditor's duties as assessor of all real property under section 5713.01 of the Revised Code;

(b) To assist the commissioner in the consideration of whether to approve or disapprove the auditor's application requesting authority to employ an appraisal firm or individual appraiser.

Sec. 5713.03. The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate, as if unencumbered, of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon and the current agricultural use value of land valued for tax purposes in accordance with section 5713.31 of the Revised Code, in every district, according to the rules prescribed by this chapter and section 5715.01 of the Revised Code, and in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner. ~~He~~ The auditor shall determine the taxable value of all real property by reducing its true or current agricultural use value by the percentage ordered by the commissioner. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer

within a reasonable length of time, either before or after the tax lien date, the auditor ~~shall~~ may consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. However, the sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the property sold if subsequent to the sale:

(A) The tract, lot, or parcel of real estate loses value due to some casualty;

(B) An improvement is added to the property. Nothing in this section or section 5713.01 of the Revised Code and no rule adopted under section 5715.01 of the Revised Code shall require the county auditor to change the true value in money of any property in any year except a year in which the tax commissioner is required to determine under section 5715.24 of the Revised Code whether the property has been assessed as required by law.

The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and taxable value of land and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, the number of acres of arable land, permanent pasture land, woodland, and wasteland in each tract, lot, or parcel. ~~He~~ The auditor shall record pertinent information and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.

Sec. 5719.13. Taxes assessed on the shares of stock of a dealer in intangibles shall be a lien on such shares from the first day of January in each year until they are paid. Each dealer in intangibles shall collect the taxes due from the owners of such shares and ~~pay~~ remit the same to the tax commissioner, who shall

accept the remittance on behalf of the treasurer of state. The remittance shall be made payable to the treasurer of state and shall be made in the form prescribed by the commissioner. Any dealer in intangibles who fails to pay said taxes as provided in this section shall be liable by way of penalty for the gross amount of the taxes due from all the owners of shares, and for an additional amount of one hundred dollars for each day of delay in the payment of said taxes.

A dealer in intangibles who pays ~~to the treasurer of state~~ the taxes assessed upon its shares in the hands of its shareholders, as provided in this section, may deduct the amount thereof from dividends or distributions that are due or thereafter become due on such shares, and shall have a lien on the shares of stock and all funds belonging to such shareholders in its possession, or which come into its possession, for reimbursement of such tax paid on account of the shareholders, with legal interest. Such lien may be enforced in any appropriate manner.

Sec. 5725.14. (A) As used in this section and section 5725.15 of the Revised Code:

(1) "Billing address" of a customer means one of the following:

(a) The customer's address as set forth in any notice, statement, bill, or similar acknowledgment shall be presumed to be the address where the customer is located with respect to the transaction for which the dealer issued the notice, statement, bill, or acknowledgment.

(b) If the dealer issues any notice, statement, bill, or similar acknowledgment electronically to an address other than a street address or post office box address or if the dealer does not issue such a notice, statement, bill, or acknowledgment, the customer's street address as set forth in the records of the

dealer at the time of the transaction shall be presumed to be the address where the customer is located.

(2) "Commissions" includes but is not limited to brokerage commissions, asset management fees, and similar fees charged in the regular course of business to a customer for the maintenance and management of the customer's account.

(3) "Gross receipts" means one of the following:

(a) In the case of a dealer in intangibles principally engaged in the business of lending money or discounting loans, the aggregate amount of loans effected or discounted;

(b) In the case of a dealer in intangibles principally engaged in the business of selling or buying stocks, bonds, or other similar securities either on the dealer's own account or as agent for another, the aggregate amount of all commissions charged.

(B) Each dealer in intangibles shall return to the tax commissioner between the first and second Mondays of March, annually, a report exhibiting in detail, and under appropriate heads, the dealer's resources and liabilities at the close of business on the thirty-first day of December next preceding, together with remittance made payable to the treasurer of state of the tax levied under division (D) of section 5707.03 of the Revised Code. In the case of an unincorporated dealer in intangibles, such report shall also exhibit the amount or value as of the date of conversion of all property within the year preceding the date of listing, and on or after the first day of November converted into bonds or other securities not taxed to the extent such nontaxable bonds or securities may be shown in the dealer's resources on such date, without deduction for indebtedness created in the purchase of such nontaxable bonds or securities.

If a dealer in intangibles maintains separate business offices, whether within this state only or within and without this state, the report shall also show the gross receipts from business done at each such office during the year ending on the thirty-first day of December next preceding.

For the purposes of this section and section 5725.15 of the Revised Code, business is considered done at an office when it originates at such office, but the receipts from business originating at one office and consummated at another office shall be divided equitably between such offices.

(C) For the purposes of this section and section 5725.15 of the Revised Code, in the case of a dealer in intangibles principally engaged in the business of selling or buying stocks, bonds, or other similar securities either on the dealer's own account or as agent for another, the dealer's capital, surplus, and undivided profits employed in this state shall bear the same ratio to the dealer's total capital, surplus, and undivided profits employed everywhere as the amount described in division (C)(1) of this section bears to the amount described in division (C)(2) of this section:

(1) The sum of the commissions earned during the year covered by the ~~report~~ return from transactions with respect to brokerage accounts owned by customers having billing addresses in this state;

(2) The sum of the commissions earned during that year from transactions with respect to brokerage accounts owned by all of the dealer's customers.

(D) An incorporated dealer in intangibles which owns or controls fifty-one per cent or more of the common stock of another incorporated dealer in intangibles may, under uniform regulations prescribed by the tax commissioner, make a consolidated return for

the purpose of sections 5725.01 to 5725.26~~, inclusive,~~ of the Revised Code. In such case the parent corporation making such return is not required to include in its resources any of the stocks, securities, or other obligations of its subsidiary dealers, nor permitted to include in its liabilities any of its own securities or other obligations belonging to its subsidiaries.

Sec. 5725.15. ~~Upon receiving the~~ The report required by section 5725.14 of the Revised Code~~, the tax commissioner~~ shall ~~ascertain and assess~~ include as taxable property all the shares of ~~such dealers~~ the dealer in intangibles, the capital stock of which is divided into shares, representing capital employed in this state, and the value of the property representing the capital, not divided into shares, employed in this state by such dealer in intangibles, according to the aggregate fair value of the capital, surplus, and undivided profits as shown in such report, including in the case of an unincorporated dealer, the value of property converted into nontaxable bonds or securities within the preceding year, without deduction for indebtedness created in the purchase of such nontaxable bonds or securities.

The filing by a dealer of the report required by section 5725.14 of the Revised Code shall be the preliminary assessment of the shares and property listed therein.

If a dealer has separate offices, whether within this state only or within and without this state, the ~~commissioner~~ dealer shall ~~find~~ list the amount of capital employed in each office in this state, which shall bear the same ratio to the entire capital of such dealer, wherever employed, as the gross receipts of such office bears to the entire gross receipts of such dealer, wherever arising.

The aggregate book value of the capital, surplus, and undivided profits of a dealer in intangibles as shown in such

report shall be taken as the fair value thereof for the purpose of the assessment required by this section, unless the commissioner finds that such book value is greater or less than the then fair value of said capital, surplus, and undivided profits. Claim for any deduction from book value of capital, surplus, and undivided profits must be made in writing by the dealer in intangibles at the time of making ~~his~~ the dealer's return.

Whenever the commissioner assesses the fair value of the capital, surplus, and undivided profits of a dealer in intangibles at an amount in excess of the ~~book~~ value thereof as ~~shown by its report, or disallows any claim for deduction from book value of such capital, surplus, and undivided profits~~ listed in the dealer's report, or assesses the shares or property of a dealer that fails to file a return, ~~he~~ the commissioner shall give notice and proceed as provided in section 5711.31 of the Revised Code.

Sec. 5725.16. On or before the first Monday of May, annually , the tax commissioner shall certify to the treasurer of state the assessment of the shares or property representing capital, or apportionment of either, of each dealer in intangibles doing business in the state, showing separately the amount representing capital employed in each county.

The treasurer of state shall place the amounts certified on the intangible property tax list in ~~his~~ the treasurer of state's office in the names of the dealers represented by those certificates.

~~Any certificate of abatement issued pursuant to section 5703.05 of the Revised Code for the overpayment of the tax on shares or property representing capital of a~~ The commissioner shall collect, on behalf of the treasurer, the taxes due on the assessments certified pursuant to this section, together with any applicable penalties or interest, in the manner prescribed by

section 5725.22 of the Revised Code. The commissioner shall immediately forward to the treasurer any payments received under this section or section 5719.13 of the Revised Code. The treasurer shall credit all such payments against the appropriate amounts on the intangible property tax list in the treasurer's office.

A dealer in intangibles may ~~be tendered by the payee or transferee thereof to the treasurer of state as payment for any taxes allocable to the county in which the~~ claim ~~for~~ a refund of any overpayment ~~arose~~ of the tax levied under division (D) of section 5707.03 of the Revised Code by filing an application for final assessment in accordance with section 5711.26 of the Revised Code.

Sec. 5725.17. (A) In addition to any other penalty imposed by this chapter or Chapter 5703. of the Revised Code, the following penalties shall apply:

(1) If a dealer in intangibles fails to make and furnish to the tax commissioner the report required by section 5725.14 of the Revised Code, within the time fixed by that section, a penalty shall be imposed equal to the greater of fifty dollars per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent, of the tax required to be shown on the report, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the report is filed.

(2) If a dealer in intangibles fails to pay any amounts of the tax levied by division (D) of section 5707.03 of the Revised Code by the dates prescribed for payment, a penalty shall be imposed equal to the greater of the penalty due under division ~~(C)~~(F) of section 5725.22 of the Revised Code, for which this penalty shall be a substitute, or two times the interest charged

under section 5725.221 of the Revised Code for the delinquent payment.

(3) If a dealer in intangibles submits a report required by section 5725.14 of the Revised Code that is marked, defaced, or otherwise designed by the dealer to be a frivolous protest or an attempt to delay or impede the administration of the tax levied by division (D) of section 5707.03 of the Revised Code, a penalty shall be imposed equal to the greater of one hundred dollars or twenty-five per cent of the tax required to be shown on the report.

(4) If a dealer in intangibles makes a fraudulent attempt to evade the reporting or payment of the tax levied by division (D) of section 5707.03 of the Revised Code, a penalty shall be imposed equal to the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the report required by section 5725.14 of the Revised Code.

(5) If any person makes a false or fraudulent claim for abatement or refund of the tax levied by division (D) of section 5707.03 of the Revised Code, a penalty shall be imposed equal to the greater of one thousand dollars or one hundred per cent of the claim. The penalty imposed by this division, any abatement or refund on the claim, and interest on any refund from the date of the refund, may be assessed under section 5725.15 of the Revised Code or added by the ~~treasurer of state~~ tax commissioner as tax, penalty, and interest due from the tax levied by division (D) of section 5707.03 of the Revised Code, without regard to whether the person making the claim is otherwise subject to the tax, and without regard to any time limitation for assessment.

(B) Each penalty imposed under division (A) of this section shall be in addition to any other penalty imposed under that division. All or part of any penalty imposed under division (A) of this section may be abated by the commissioner ~~or the treasurer of~~

~~state, as appropriate~~.

Sec. 5725.22. (A) The treasurer of state shall maintain an intangible property tax list of taxes levied by section 5707.03 of the Revised Code and certified by the tax commissioner pursuant to sections 5711.13, 5725.08, 5725.16, and 5727.15 of the Revised Code, and a separate list of taxes levied by section 5725.18 of the Revised Code and certified by the superintendent of insurance pursuant to section 5725.20 of the Revised Code. ~~Upon receipt of any assessment certified to him~~

(B)(1) With respect to taxes levied under section 5725.18 of the Revised Code, the treasurer of state, upon receipt of an assessment, shall compute the taxes at the rates prescribed by law and enter the taxes on the proper tax list. ~~He~~ The treasurer shall collect, and the taxpayer shall pay, all such taxes and any interest applicable thereto. Payments may be made by mail, in person, or by any other means authorized by the treasurer ~~of state~~. The treasurer ~~of state~~ shall render a daily itemized statement to the ~~tax commissioner~~ superintendent of insurance of the amount of taxes collected and the name of the domestic insurance company ~~or assessment certificate number of the person~~ from whom collected. The treasurer of state may adopt rules concerning the methods and timeliness of ~~payment~~ payments under this division.

(2) With respect to taxes levied under section 5707.03 of the Revised Code, any assessment certified to the treasurer of state shall reflect the taxes computed at the rates prescribed by law. Upon receipt of such an assessment, the treasurer shall enter the taxes on the proper tax list. The tax commissioner shall collect, and the taxpayer shall pay, all such taxes and any interest applicable thereto. Payments may be made by mail, in person, or by any other means authorized by the commissioner. The commissioner

shall immediately forward to the treasurer any payments received under this division, together with any information necessary for the treasurer to properly credit such payments. The commissioner may adopt rules concerning the method and timeliness of payments under this division.

(C) Each tax bill issued pursuant to this section shall separately reflect the taxes due, interest, if any, due date, and any other information considered necessary. The last day on which payment may be made without penalty shall be at least twenty but not more than thirty days from the date of mailing the tax bill. The treasurer of state or tax commissioner, as appropriate, shall mail the tax bill, and the mailing thereof shall be prima-facie evidence of receipt thereof by the taxpayer.

The treasurer ~~of state~~ or commissioner, as appropriate, shall refund taxes as provided in this section, but no refund shall be made to a taxpayer having a delinquent claim certified pursuant to this section that remains unpaid. The treasurer ~~of state~~ or commissioner may consult the attorney general regarding such claims. Refunds shall be paid from the tax refund fund created by section 5703.052 of the Revised Code.

~~(A)~~(D)(1) Within twenty days after receipt of any preliminary assessment ~~certified to him~~ of taxes levied under section 5725.18 of the Revised Code, the treasurer of state shall issue a tax bill, but if such preliminary assessment reflects a late filed tax return, the treasurer of state shall add interest as provided in division (A) of section 5725.221 of the Revised Code and issue a tax bill.

~~(B)~~(2) Within twenty days after receipt of any amended or final assessment ~~certified to him~~ of taxes levied under section 5725.18 of the Revised Code, the treasurer of state shall ascertain the difference between the total taxes computed on such assessment and the total taxes computed on the most recent

assessment certified for the same tax year. If the difference is a deficiency, the treasurer of state shall add interest as provided in division (B)(1) of section 5725.221 of the Revised Code and issue a tax bill. If the difference is an excess, the treasurer of state shall add interest as provided in division (B)(2) of section 5725.221 of the Revised Code and certify the name of the taxpayer and the amount to be refunded to the director of budget and management for payment to the taxpayer. If the taxpayer has a deficiency for one tax year and an excess for another tax year, or any combination thereof for more than two tax years, the treasurer of state may determine the net result after adding interest, if applicable, and, depending on such result, proceed to mail a tax bill or certify a refund.

~~(C)~~(E)(1) Except as provided in division (E)(2) of this section, within twenty days after certifying to the treasurer of state an amended or final assessment, or a preliminary assessment of a dealer in intangibles that has failed to file a report or disclose taxable property, the tax commissioner shall ascertain the difference between the total taxes computed on such assessment and the total taxes computed on the most recent assessment certified for the same tax year, if any. If the difference is a deficiency, the commissioner shall add interest as provided in division (B)(1) of section 5725.221 of the Revised Code and issue a tax bill. If the difference is an excess, the commissioner shall add interest as provided in division (B)(2) of section 5725.221 of the Revised Code and certify the name of the taxpayer and the amount to be refunded to the director of budget and management for payment to the taxpayer. If the taxpayer has a deficiency for one tax year and excess for another tax year, or any combination thereof for more than two tax years, the commissioner may determine the net result after adding interest, if applicable, and, depending on such result, proceed to mail a tax bill or certify a refund.

(2) The tax commissioner may issue a tax bill for any deficiency resulting from an assessment at the time the commissioner issues the assessment.

(F) If a taxpayer fails to pay all taxes and interest, if any, on or before the due date shown on the tax bill but makes payment within ten calendar days of such date, the treasurer of state or tax commissioner, as appropriate, shall add a penalty equal to five per cent of the taxes due. If payment is not made within ten days of such date, the treasurer ~~of state~~ or commissioner shall add a penalty equal to ten per cent of the taxes due. The treasurer ~~of state~~ or commissioner shall prepare a delinquent claim for each tax bill on which penalties were added and certify such claims to the attorney general for collection. The attorney general shall transmit a copy of each claim certified by the treasurer to the ~~tax commissioner or the~~ superintendent of insurance ~~and~~. For each claim certified by the treasurer or commissioner, the attorney general shall proceed to collect the delinquent taxes, penalties, and interest thereon in the manner prescribed by law.

Sec. 5725.221. For the purposes of this section, interest shall be computed at a rate per calendar month, rounded to the nearest one-hundredth of one per cent, equal to one-twelfth of the rate per annum prescribed by section 5703.47 of the Revised Code for the calendar year that includes the month for which the interest accrues.

(A) When taxes levied by section 3737.71, 5707.03, or 5725.18 of the Revised Code are assessed as the result of a tax return being filed late, the treasurer of state or tax commissioner, as appropriate, shall add interest to the taxes due. The interest shall accrue from the first day of the month following the last day on which such taxes were required to be paid, had the

assessment been certified by the date prescribed, to the last day of the month preceding the date on which the assessment was certified, and shall be computed on the taxes due.

(B) If an assessment has been certified pursuant to section 5711.13, 5725.08, 5725.16, 5725.20, or 5725.222 of the Revised Code and an amended or final assessment is certified for the same taxpayer and the same tax year, the treasurer of state or tax commissioner, as appropriate, shall add interest to the deficiency or excess. The interest shall be computed on the excess or deficiency, and shall be accrued in the following manner:

(1) On a deficiency, interest shall accrue from the first day of the month following the last day on which the previous assessment was required to be paid, to the last day of the month preceding the date on which the amended or final assessment is certified;

(2) On an excess, interest shall be allowed from the first day of the month following the date of payment of the previous assessment, to the last day of the month preceding the date on which the amended or final assessment is certified.

Sec. 5731.39. (A) No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share of its capital stock registered in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, without the written consent of the tax commissioner.

(B) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in

excess of three-fourths of the total value of such deposit, including accrued interest and dividends, as of the date of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay the proceeds of any death benefit, retirement, pension or profit sharing plan in excess of two thousand dollars, without the written consent of the tax commissioner. Such trust company or other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation), standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent

and another person or persons, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or transfer any such securities, assets, or other property which have a value as of the date of decedent's death in excess of three-fourths of the total value thereof, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of any such securities, assets, or other property having a value of three-fourths or less of said total value.

(F) No safe deposit company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person having possession or control of a safe deposit box or similar receptacle standing in the name of a decedent or in the name of the decedent and another person or persons, or to which the decedent had a right of access, except when such safe deposit box or other receptacle stands in the name of a corporation or partnership, or in the name of the decedent as guardian or executor, shall deliver any of the contents thereof unless the safe deposit box or similar receptacle has been opened and inventoried in the presence of the tax commissioner or the commissioner's agent, and a written consent to transfer issued; provided, however, that a safe deposit company, financial institution, or other corporation or person having possession or control of a safe deposit box may deliver wills, deeds to burial lots, and insurance policies to a representative of the decedent, but that a representative of the safe deposit company, financial institution, or other corporation or person must supervise the opening of the box and make a written record of the wills, deeds, and policies removed. Such written record shall be included in the tax commissioner's inventory records.

(G) Notwithstanding any provision of this section:

(1) The tax commissioner may authorize any delivery or

transfer or waive any of the foregoing requirements under such terms and conditions as the commissioner may prescribe;

(2) ~~An adult care facility, as defined in section 5119.70 of the Revised Code, or a~~ A home, as defined in section 3721.10 of the Revised Code, or a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, may transfer or use the money in a personal needs allowance account in accordance with section 5111.113 of the Revised Code without the written consent of the tax commissioner, and without the account having been opened and inventoried in the presence of the commissioner or the commissioner's agent.

Failure to comply with this section shall render such safe deposit company, trust company, life insurance company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person liable for the amount of the taxes and interest due under the provisions of Chapter 5731. of the Revised Code on the transfer of such stock, deposit, proceeds of an annuity or matured endowment contract or of a life insurance contract payable to the estate of a decedent, or other insurance contract taxable under Chapter 5731. of the Revised Code, proceeds of any death benefit, retirement, pension, or profit sharing plan in excess of two thousand dollars, or securities, assets, or other property of any resident decedent, and in addition thereto, to a penalty of not less than five hundred or more than five thousand dollars.

Sec. 5733.064. There is hereby allowed a credit against the tax imposed under sections 5733.06, 5733.065, and 5733.066 of the Revised Code. The credit shall equal the lesser of fifty per cent of any cash donations made during the taxable year by the taxpayer to an Ohio corporation organized prior to January 1, 1987, whose

sole purpose is to promote and encourage recycling and that has been determined by the internal revenue service to be a nonprofit corporation regardless of whether the nonprofit corporation received a grant under section ~~1502.05~~ 3736.05 of the Revised Code, or to municipal corporations, counties, townships, park districts, and boards of education that received grants pursuant to that section, or one-half of the amount of the taxpayer's additional tax liability for the tax year resulting from the additional rates imposed by sections 5733.065 and 5733.066 of the Revised Code to provide funding for ~~the division of~~ recycling and litter prevention under Chapter ~~1502.~~ 3736. of the Revised Code. The taxpayer shall claim the nonrefundable credit in the order required under section 5733.98 of the Revised Code.

The tax commissioner may require the taxpayer to furnish such information as is necessary to support a claim for a credit under this section, and no credit shall be allowed unless the information is provided.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty

per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service;

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided;

(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;

(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the

order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of

fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats,

planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement;

(11)(a) Except as provided in division (B)(11)(b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

(b) If the centers for medicare and medicaid services of the United States department of health and human services determines

that the taxation of transactions described in division (B)(11)(a) of this section constitutes an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations adopted thereunder, the director of job and family services shall notify the tax commissioner of that determination. Beginning with the first day of the month following that notification, the transactions described in division (B)(11)(a) of this section are not sales for the purposes of this chapter or Chapter 5741. of the Revised Code. The tax commissioner shall order that the collection of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease for transactions occurring on or after that date.

Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in

transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the

purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E)(1) of this section

or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used

in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:

(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a gift card.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as

part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

(4) In the case of transactions for health care services under division (B)(11) of this section, "price" means the amount of managed care premiums received each month by a medicaid health insuring corporation.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that the dollar value of gift cards distributed pursuant to an awards, loyalty, or promotional program, and cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal

property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or

from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of

others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control,

information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(h) Ancillary service;

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to

individual calls on a customer's billing statement.

(c) "Directory assistance" means an ancillary service of providing telephone number or address information.

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.

(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units ~~of~~ or dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other

non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units ~~of~~ or dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.

(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing

processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service or from a third party that provided or supplied the personnel to the provider or supplier. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. "Livestock" does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where

the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail

service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a

result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) "Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic

beverages, dietary supplements, soft drinks, or tobacco.

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

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a

missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

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

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program

aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered

and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

(MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

(OOO) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes.

(PPP) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A)(1) The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five and one-half per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until

the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided

in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation;

sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the

operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that

state, would be exempt from a tax on sales levied by that state; and, until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)(42)(a), (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this

division, "food" has the same meaning as in 7 U.S.C. 2012 and federal regulations adopted pursuant to the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats,

cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised

Code;

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35)(a) Sales where the purpose of the consumer is to use or

consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; and of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section; ~~and~~

(c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

~~(c)~~(d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in

preparation for teaching elementary or secondary school students;

(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider

of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering services in the exploration for, and production of, crude oil and natural gas for others are deemed engaged directly in the exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial

fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as

in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of

section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48)(a) Sales of machinery, equipment, and software to a

qualified direct selling entity for use in a warehouse or distribution center primarily for storing, transporting, or otherwise handling inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;

(b) As used in division (B)(48)(a) of this section:

(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.

(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.

(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.

(49)(a) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49)(a) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

(b) Sales of tangible personal property, including materials, parts, equipment, software, supplies, tools, fuel, catalysts, oil, acids, and other consumables, or services used or consumed in performing research and development activities with respect to aerospace vehicles, the parts, avionics systems, control systems, engines, software, component materials, or component parts of such aerospace vehicles, and human performance equipment and technology associated with operating and testing aerospace vehicles. As used in division (B)(49)(b) of this section, "aerospace vehicles" means any manned or unmanned aviation device including, but not limited to, aircraft, airplanes, helicopters, missiles, rockets, and space vehicles.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent aircraft operations in ground and flight conditions, a visual system providing an out-of-the-cockpit view, and a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and has the full range of capabilities of the systems installed in the device as described in appendices A and B of part 60 of chapter 1 of title 14 of the Code of Federal Regulations.

(51) Any transfer or lease of tangible personal property between the state and a successful proposer in accordance with sections 126.60 to 126.605 of the Revised Code, provided the property is part of a project as defined in section 126.60 of the Revised Code and the state retains ownership of the project or part thereof that is being transferred or leased, between the state and JobsOhio in accordance with section 4313.02 of the

Revised Code.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5743.03. (A) Except as provided in section 5743.04 of the Revised Code, the taxes imposed under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the Revised Code shall be paid by the purchase of tax stamps. A tax stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The tax stamp, so affixed, shall be prima-facie evidence of payment of the tax.

Except as is provided in the rules prescribed by the tax commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, and unless tax stamps have been previously affixed,

they shall be so affixed by each wholesale dealer, and canceled by writing or stamping across the face thereof the number assigned to such wholesale dealer by the tax commissioner for that purpose, prior to the delivery of any cigarettes to any person in this state, or in the case of a tax levied pursuant to section 5743.021, 5743.024, or 5743.026 of the Revised Code, prior to the delivery of cigarettes to any person in the county in which the tax is levied.

(B) Except as provided in the rules prescribed by the commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, each retail dealer, within twenty-four hours after the receipt of any cigarettes at the retail dealer's place of business, shall inspect the cigarettes to ensure that tax stamps are affixed. The inspection shall be completed before the cigarettes are delivered to any person in this state, or, in the case of a tax levied pursuant to section 5743.021, 5743.024, or 5743.026 of the Revised Code, before the cigarettes are delivered to any person in the county in which the tax is levied.

(C) Whenever any cigarettes are found in the place of business of any retail dealer without proper tax stamps affixed thereto and canceled, it is presumed that such cigarettes are kept therein in violation of sections 5743.01 to 5743.20 of the Revised Code.

(D) Each wholesale dealer who purchases cigarettes without proper tax stamps affixed thereto shall, on or before the thirty-first day of the month following the close of each semiannual period, which period shall end on the thirtieth day of June and the thirty-first day of December of each year, make and file a return of the preceding semiannual period, on such form as is prescribed by the tax commissioner, showing the dealer's entire purchases and sales of cigarettes and stamps or impressions for such semiannual period and accurate inventories as of the

beginning and end of each semiannual period of cigarettes, stamped or unstamped; cigarette tax stamps affixed or unaffixed and unused meter impressions; and such other information as the commissioner finds necessary to the proper administration of sections 5743.01 to 5743.20 of the Revised Code. The commissioner may extend the time for making and filing returns and may remit all or any part of amounts of penalties that may become due under sections 5743.01 to 5743.20 of the Revised Code. The wholesale dealer shall deliver the return together with a remittance of the tax deficiency reported thereon to the treasurer of state. The treasurer of state shall stamp or otherwise mark on the return the date it was received and shall also show thereon by stamp or otherwise a payment or nonpayment of the deficiency shown by the return. Thereafter, the treasurer of state shall immediately transmit all returns filed under this section to the commissioner.

(E) Any wholesale dealer who fails to file a return under this section and the rules of the commissioner, other than a report required pursuant to division (F) of this section, may be required, for each day the dealer so fails, to forfeit and pay into the state treasury the sum of one dollar as revenue arising from the tax imposed by sections 5743.01 to 5743.20 of the Revised Code and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. If the commissioner finds it necessary in order to insure the payment of the tax imposed by sections 5743.01 to 5743.20 of the Revised Code, the commissioner may require returns and payments to be made other than semiannually. The returns shall be signed by the wholesale dealer or an authorized agent thereof.

(F) Each person required to file a tax return under section 5743.03, 5743.52, or 5743.62 of the Revised Code shall report to the commissioner the quantity of all cigarettes and roll-your-own cigarette tobacco sold in Ohio for each brand not covered by the

tobacco master settlement agreement for which the person is liable for the taxes levied under section 5743.02, 5743.51, or 5743.62 of the Revised Code.

As used in this division, "tobacco master settlement agreement" has the same meaning as in section 183.01 of the Revised Code.

(G) The report required by division (F) of this section shall be made on a form prescribed by the commissioner and shall be filed not later than the last day of each month for the previous month, except that if the commissioner determines that the quantity reported by a person does not warrant monthly reporting, the commissioner may authorize reporting at less frequent intervals. The commissioner may assess a penalty of not more than two hundred fifty dollars for each month or portion thereof that a person fails to timely file a required report, and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. All money collected under this division shall be considered as revenue arising from the taxes imposed by sections 5743.01 to 5743.20 of the Revised Code.

(H) The treasurer of state or an agent of the treasurer may sell tax stamps only to a licensed wholesale dealer, except as otherwise authorized by the commissioner. The treasurer or an agent of the treasurer may charge the costs associated with the sale of tax stamps to the licensed wholesale dealer. Amounts collected from such charges shall be credited to the treasurer of state's administrative fund created under section 113.20 of the Revised Code.

Sec. 5743.031. (A) A wholesale dealer may affix stamps only to packages of cigarettes that the dealer received directly from a manufacturer or importer of cigarettes that possesses a valid and current license under section 5743.15 of the Revised Code, or to

packages of cigarettes that the dealer received from another wholesale dealer that possesses a valid and current license under section 5743.15 of the Revised Code, provided that the tax commissioner has authorized the sale of the cigarettes between those wholesale dealers and that the wholesale dealer that sells the cigarettes received them directly from a manufacturer or importer of cigarettes that possesses a valid and current license under section 5743.15 of the Revised Code.

(B) Only a wholesale dealer that possesses a valid and current license under section 5743.15 of the Revised Code may purchase or obtain tax stamps. A wholesale dealer may not sell or provide such stamps to any other wholesale dealer or any other person.

(C) Any person shipping unstamped packages of cigarettes into this state to a person other than a wholesale dealer licensed under section 5743.15 of the Revised Code shall, before such shipment, file notice of the shipment with the tax commissioner. Any person that transports unstamped packages of cigarettes into or within this state shall carry in the vehicle used to convey the shipment invoices or equivalent documentation of the shipment for all cigarettes in the shipment. The invoices or other documentation shall show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity of the cigarettes being transported. This division does not apply to any ~~common or contract~~ for-hire motor carrier transporting cigarettes through this state to another location under a proper bill of lading or freight bill that states the quantity, source, and destination of the cigarettes.

Sec. 5751.033. For the purposes of this chapter, gross receipts shall be situsued to this state as follows:

(A) Gross rents and royalties from real property located in this state shall be sitused to this state.

(B) Gross rents and royalties from tangible personal property shall be sitused to this state to the extent the tangible personal property is located or used in this state.

(C) Gross receipts from the sale of electricity and electric transmission and distribution services shall be sitused to this state in the manner provided under section 5733.059 of the Revised Code.

(D) Gross receipts from the sale of real property located in this state shall be sitused to this state.

(E) Gross receipts from the sale of tangible personal property shall be sitused to this state if the property is received in this state by the purchaser. In the case of delivery of tangible personal property by ~~common~~ motor carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered the place where the purchaser receives the property. For purposes of this section, the phrase "delivery of tangible personal property by ~~common~~ motor carrier or by other means of transportation" includes the situation in which a purchaser accepts the property in this state and then transports the property directly or by other means to a location outside this state. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

(F) Gross receipts from the sale, exchange, disposition, or

other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be sitused to this state to the extent that the receipts are based on the amount of use of the property in this state. If the receipts are not based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be sitused to this state to the extent the receipts are based on the right to use the property in this state.

(G) Gross receipts from the sale of transportation services by a ~~common or contract~~ motor carrier shall be sitused to this state in proportion to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways in this state to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways everywhere. With prior written approval of the tax commissioner, a ~~common or contract~~ motor carrier may use an alternative situsing procedure for transportation services.

(H) Gross receipts from dividends, interest, and other sources of income from financial instruments described in divisions (F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of section 5733.056 of the Revised Code shall be sitused to this state in accordance with the situsing provisions set forth in those divisions. When applying the provisions of divisions (F)(6), (8), and (13) of section 5733.056 of the Revised Code, "gross receipts" shall be substituted for "net gains" wherever "net gains" appears in those divisions. Nothing in this division limits or modifies the exclusions enumerated in divisions (E) and (F)(2) of section 5751.01 of the Revised Code. The tax commissioner may promulgate rules to further specify the manner in which to situs gross receipts subject to this division.

(I) Gross receipts from the sale of all other services, and all other gross receipts not otherwise situsedunder this section, shall be situsedto this state in the proportion that the purchaser's benefit in this state with respect to what was purchased bears to the purchaser's benefit everywhere with respect to what was purchased. The physical location where the purchaser ultimately uses or receives the benefit of what was purchased shall be paramount in determining the proportion of the benefit in this state to the benefit everywhere. If a taxpayer's records do not allow the taxpayer to determine that location, the taxpayer may use an alternative method to situs gross receipts under this division if the alternative method is reasonable, is consistently and uniformly applied, and is supported by the taxpayer's records as the records exist when the service is provided or within a reasonable period of time thereafter.

(J) If the situsing provisions of divisions (A) to (H) of this section do not fairly represent the extent of a person's activity in this state, the person may request, or the tax commissioner may require or permit, an alternative method. Such request by a person must be made within the applicable statute of limitations set forth in this chapter.

(K) The tax commissioner may adopt rules to provide additional guidance to the application of this section, and provide alternative methods of situsing gross receipts that apply to all persons, or subset of persons, that are engaged in similar business or trade activities.

(L) As used in this section, "motor carrier" has the same meaning as in section 4923.01 of the Revised Code.

Sec. 5751.12. The tax commissioner may prescribe requirements for the keeping of records and other pertinent documents, the filing of copies of federal income tax returns and determinations,

and computations reconciling federal income tax returns with the returns and reports required by section 5751.05 of the Revised Code. The commissioner may require any person, by rule or notice served on that person, to keep those records that the commissioner considers necessary to show whether, and the extent to which, a person is subject to this chapter. Those records and other documents shall be open during business hours to the inspection of the commissioner, and shall be preserved for a period of four years unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. If such records are normally kept by the person electronically, the person shall provide such records to the commissioner electronically at the commissioner's request.

Any information required by the ~~tax~~ commissioner under this chapter is confidential as provided for in section 5703.21 of the Revised Code. However, the commissioner shall make public an electronic list of all actively registered persons required to remit the tax under this chapter, including legal names, trade names, addresses, and account numbers. In addition, such list shall include all persons that cancelled their registration at any time during the preceding four calendar years, including the date the registration was cancelled.

Sec. 6109.21. (A) Except as provided in divisions ~~(D)~~(I) and ~~(E)~~(J) of this section, ~~on and after January 1, 1994,~~ no person shall operate ~~or maintain~~ a public water system in this state without a license issued by the director of environmental protection. ~~A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:~~

~~(1) If the public water system is a community water system, not later than January 31, 1994;~~

~~(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;~~

~~(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.~~

~~A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.~~

~~A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.~~

~~The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through~~ (B)(1) A person who proposes to operate a new public water system, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall obtain an initial license from the director. The person shall submit an application for the initial license at least forty-five days prior to commencing the operation of the system.

(C) A license shall expire on the thirtieth day of January in the year following its issuance.

(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license.

(E) Through June 30, 2014, each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code~~, provided that~~. However, an applicant for an initial license who is proposing to operate ~~or maintain~~ a new public water system ~~after January 1, 1994,~~ shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

~~(B)~~(F) Not later than thirty days after receiving a completed application and the appropriate license fee for ~~an initial~~ a license ~~under division (A) of this section, the director shall issue the~~ or license renewal for ~~the~~ a public water system~~. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section~~, the director shall do one of the following:

(1) Issue the license or license renewal for the public water system;

(2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license or license renewal if the director finds that the public water system ~~was not~~ cannot be operated in substantial compliance with this chapter and rules adopted under it.

~~(C)~~(G) The director may condition, suspend, or revoke a license or license renewal issued under this section at any time if the director finds that the public water system was not or will

not be operated in substantial compliance with this chapter and rules adopted under it. ~~The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.~~

~~(D)~~(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements governing both of the following:

(1) Information to be included on applications for licenses and license renewals issued under this section;

(2) The issuance, conditioning, suspension, revocation, and denial of licenses and license renewals under this section.

(I)(1) As used in division ~~(D)~~(I) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. ~~A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.~~

~~(E)~~(J) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

~~(F)~~(K) The environmental protection agency shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under

it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 6111.46. (A) The environmental protection agency shall exercise general supervision of the treatment and disposal of sewage and industrial wastes and the operation and maintenance of works or means installed for the collection, treatment, and disposal of sewage and industrial wastes. Such general supervision shall apply to all features of construction, operation, and maintenance of the works or means that do or may affect the proper treatment and disposal of sewage and industrial wastes.

(B)(1) The agency shall investigate the works or means employed in the collection, treatment, and disposal of sewage and industrial wastes whenever considered necessary or whenever requested to do so by local health officials and may issue and enforce orders and shall adopt rules governing the operation and maintenance of the works or means of treatment and disposal of such sewage and industrial wastes. In adopting rules under this section, the agency shall establish standards governing the construction, operation, and maintenance of the works or means of collection, treatment, and disposal of sewage that is generated at recreational vehicle parks, recreation camps, combined park-camps, and temporary park-camps that are separate from such standards relative to manufactured home parks.

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

(a) "Manufactured home parks" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code.

(b) "Recreational vehicle parks," "recreation camps," "combined park-camps," and "temporary park-camps" have the same meanings as in section 3729.01 of the Revised Code.

(C) The agency may require the submission of records and data

of construction, operation, and maintenance, including plans and descriptions of existing works or means of treatment and disposal of such sewage and industrial wastes. When the agency requires the submission of such records or information, the public officials or person, firm, or corporation having the works in charge shall comply promptly with that order.

Sec. 6117.39. (A) Except as provided in division (B) of this section, whenever, in the opinion of the board of county commissioners, it is necessary to acquire real estate or any interest in real estate for the acquisition, construction, maintenance, or operation of any sewer, drainage, or other improvement authorized by this chapter, or to acquire the right to construct, maintain, and operate the sewer, drainage, or other improvement in and upon any property within or outside of a county sewer district, it may purchase the real estate, interest in real estate, or right by negotiation. If the board and the owner of the real estate, interest in real estate, or right are unable to agree upon its purchase and sale, or the amount of damages to be awarded for it, the board may appropriate the real estate, interest, or right in accordance with sections 163.01 to 163.22 of the Revised Code, except that the board, in the exercise of the powers granted by this section or any other section of this chapter, may not appropriate real estate or personal property owned by a municipal corporation.

(B)(1) For the purposes of division (B) of this section, ~~either~~ any of the following constitutes a public exigency:

(a) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;

(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare;

(c) With respect to an affected parcel of property, an improvement required as a result of a federally imposed or state-imposed consent decree that prohibits future sewer inflows, combined sewer overflows, or sewer back-ups.

(2) If the board of county commissioners is unable to purchase property for the purpose of ~~the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health~~ addressing a public exigency pursuant to division (B) of this section, the board of county commissioners may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of county commissioners considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of county commissioners shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for

the purposes of this division shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in the time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.

Sec. 6119.11. (A) Except as provided in division (B) of this section, the board of trustees of a regional water and sewer district may condemn for the use of the district any public or private land, easement, rights, rights-of-way, franchises, or other property within or without the district required by it for the accomplishment of its purposes according to the procedure set forth in sections 163.01 to 163.22 of the Revised Code.

(B)(1) For the purposes of division (B) of this section, ~~either~~ any of the following constitutes a public exigency:

(a) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;

(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare;

(c) With respect to an affected parcel of property, an improvement required as a result of a federally imposed or state-imposed consent decree that prohibits future sewer inflows, combined sewer overflows, or sewer back-ups.

(2) If the board of trustees of a regional water and sewer

district is unable to purchase property for the purpose of ~~the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health~~ addressing a public exigency pursuant to division (B) of this section, the board of trustees may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of trustees considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of trustees shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in the time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.

Section 101.02. That existing sections 7.10, 7.16, 9.34, 102.02, 103.05, 105.41, 107.54, 109.33, 109.57, 109.572, 109.801, 119.032, 121.04, 121.08, 121.083, 121.084, 123.01, 123.011, 123.024, 123.04, 123.07, 123.08, 123.09, 123.10, 123.101, 123.11, 123.13, 123.14, 123.15, 123.152, 123.17, 123.21, 123.46, 123.47,

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5743.031, 5751.033, 5751.12, 6109.21, 6111.46, 6117.39, and 75138
6119.11 of the Revised Code are hereby repealed. 75139

Section 105.01. That sections 185.04, 185.08, 185.10, 185.11, 75140
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Section 105.10. Section 3356.10 of the Revised Code is hereby repealed, effective five years after the effective date of that section.

Section 110.10. That the version of section 5122.31 of the Revised Code that is scheduled to take effect on October 1, 2012, be amended to read as follows:

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient

or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or section 5123.601 of the Revised Code;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial

status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department, other institutions and facilities within the department, hospitals licensed by the department under section 5119.20 of the Revised Code, and community mental health agencies may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient;

(8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health agencies may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other agencies in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a

deceased patient upon request of that relative;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

(13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently

provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), ~~(7),~~ and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Section 110.11. That the existing version of section 5122.31 of the Revised Code that is scheduled to take effect on October 1, 2012, is hereby repealed.

Section 110.12. Sections 110.10 and 110.11 of this act take effect October 1, 2012.

Section 110.20. That the version of section 5123.19 of the Revised Code that is scheduled to take effect on October 1, 2012, be amended to read as follows:

Sec. 5123.19. (A) As used in ~~this section and in~~ sections ~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and~~ 5123.19 to 5123.20 of the Revised Code:

(1)~~(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised~~

~~Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.~~

~~(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.~~

~~(2) "Political subdivision" means a municipal corporation, county, or township.~~

~~(3)~~ "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

~~(4)~~(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 1905(d) of the "Social Security Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended.

(3) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(4) "Political subdivision" means a municipal corporation, county, or township.

(5) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential

facility, rather than a person or government entity certified to provide supported living.

(6)(a) Except as provided in division (A)(6)(b) of this section, "residential facility" means a home or facility, including a facility certified as an intermediate care facility for the mentally retarded, in which an individual with mental retardation or a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~5119.73,~~ 5103.03, ~~or~~ 5119.20, or division (A)(9)(b) of section 5119.22 of the Revised Code. ~~Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.~~

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K)

of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation

proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. The county board shall send a copy of the letter to each of the following:

(a) Each resident who receives services from the licensee;

(b) The guardian of each resident who receives services from the licensee if the resident has a guardian;

(c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not

later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a

related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities~~, including intermediate care facilities for the mentally retarded~~. The rules for residential facilities that are intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a

license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section ~~5123.193 or~~ 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that

a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of developmental disabilities and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and

architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(R) Divisions (O) and (P) of this section are not applicable

to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility

shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Section 110.21. That the existing version of section 5123.19 of the Revised Code that is scheduled to take effect on October 1, 2012, is hereby repealed.

Section 110.22. Sections 110.20 and 110.21 of this act take effect October 1, 2012.

Section 110.30. That the version of section 5123.61 of the Revised Code that is scheduled to take effect on October 1, 2012, be amended to read as follows:

Sec. 5123.61. (A) As used in this section:

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that person, shall immediately report or cause reports to be made of such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of developmental disabilities. If the report concerns a resident of a facility operated by the department of developmental disabilities the report shall be made either to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of ~~an adult care~~ a residential facility licensed under ~~Chapter 3722.~~ section 5119.22 of the Revised Code that provides accommodations, supervision, and person care services for three to sixteen unrelated adults, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A ~~clergyman~~ member of the clergy who is employed in a position that includes providing specialized services to an

individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3)(a) The reporting requirements of this division do not apply to employees of the Ohio protection and advocacy system.

(b) An attorney or physician is not required to make a report pursuant to division (C)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (C)(1) of this section, if both of the following apply:

(i) The client or patient, at the time of the communication, is a person with mental retardation or a developmental disability.

(ii) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(4) Any person who fails to make a report required under

division (C) of this section and who is an MR/DD employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the person with mental retardation or a developmental disability and the person's custodian, if known;

(2) The age of the person with mental retardation or a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that a person with mental retardation or a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or the county board of developmental

disabilities. If the person is a resident of a facility operated by the department of developmental disabilities, the report shall be made to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(G)(1) Upon the receipt of a report concerning the possible abuse or neglect of a person with mental retardation or a developmental disability, the law enforcement agency shall inform the county board of developmental disabilities or, if the person is a resident of a facility operated by the department of developmental disabilities, the director of the department or the director's designee.

(2) On receipt of a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the department of developmental disabilities shall notify the law enforcement agency.

(3) When a county board of developmental disabilities receives a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the superintendent of the board or an individual the superintendent designates under division (H) of this section shall notify the law enforcement agency. The superintendent or individual shall notify the department of developmental disabilities when it receives any report under this section.

(4) When a county board of developmental disabilities receives a report under this section and believes that the degree of risk to the person is such that the report is an emergency, the superintendent of the board or an employee of the board the superintendent designates shall attempt a face-to-face contact

with the person with mental retardation or a developmental disability who allegedly is the victim within one hour of the board's receipt of the report.

(H) The superintendent of the board may designate an individual to be responsible for notifying the law enforcement agency and the department when the county board receives a report under this section.

(I) An adult with mental retardation or a developmental disability about whom a report is made may be removed from the adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect it receives under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The investigation shall be in accordance with the memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the department shall provide such protective

services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code and the law enforcement agency shall make the written report of its findings to the county board.

(K) Any person or any hospital, institution, school, health department, or agency participating in the making of reports pursuant to this section, any person participating as a witness in an administrative or judicial proceeding resulting from the reports, or any person or governmental entity that discharges responsibilities under sections 5126.31 to 5126.33 of the Revised Code shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions except liability for perjury, unless the person or governmental entity has acted in bad faith or with malicious purpose.

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the person who is the subject of the report, to the person's legal

counsel, and to agencies authorized to receive information in the report by the department or by a county board of developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding the injuries or physical neglect of a person with mental retardation or a developmental disability or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

Section 110.31. That the existing version of section 5123.61 of the Revised Code that is scheduled to take effect on October 1, 2012, is hereby repealed.

Section 110.32. Sections 110.30 and 110.31 of this act take effect October 1, 2012.

Section 301.11. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Conservation Fund (Fund 7056) that are not otherwise appropriated.

		Appropriations
	PWC PUBLIC WORKS COMMISSION	
C15060	Clean Ohio Conservation	$ 36,000,000
Total Public Works Commission		$ 36,000,000
TOTAL Clean Ohio Conservation Fund		$ 36,000,000

The foregoing appropriation item C15060, Clean Ohio Conservation, shall be used in accordance with sections 164.20 to 164.27 of the Revised Code. If the Public Works Commission receives refunds due to project overpayments that are discovered during the post-project audit, the Director of the Public Works Commission may certify to the Director of Budget and Management that refunds have been received. If the Director of Budget and

Management determines that the project refunds are available to support additional appropriations, such amounts are hereby appropriated.

Section 301.12. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Agricultural Easement Fund (Fund 7057) that are not otherwise appropriated.

		Appropriations
	AGR DEPARTMENT OF AGRICULTURE	
C70009	Clean Ohio Agricultural Easements	$ 6,000,000
Total Department of Agriculture		$ 6,000,000
TOTAL Clean Ohio Agricultural Easement Fund		$ 6,000,000

Section 301.13. (A) The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2o and 2q of Article VIII, Ohio Constitution, and pursuant to sections 151.01 and 151.09 of the Revised Code, original obligations of the state in an aggregate principal amount not to exceed $36,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued and sold from time to time, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the Clean Ohio Conservation Fund (Fund 7056) to pay costs of conservation projects.

(B) The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2o and 2q of Article VIII, Ohio Constitution, and pursuant to sections 151.01 and 151.09 of the Revised Code, original obligations of the state in an aggregate principal amount not to exceed $6,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized

obligations shall be issued and sold from time to time, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the Clean Ohio Agricultural Easement Fund (Fund 7057) to pay costs of conservation projects.

Section 301.14. Notwithstanding section 126.14 of the Revised Code, appropriations from the Clean Ohio Conservation Fund (Fund 7056) to the Public Works Commission shall be released upon presentation of a request to release the funds, by the agency to which the appropriation has been made, to the Director of Budget and Management.

Section 301.15. The capital improvements for which appropriations are made in this act from the Clean Ohio Conservation Fund (Fund 7056) and the Clean Ohio Agricultural Easement Fund (Fund 7057) are determined to be capital improvements and capital facilities for natural resources and local subdivision capital improvement projects and are designated as capital facilities to which proceeds of obligations issued under Chapter 151. of the Revised Code are to be applied.

Section 503.10. FISCAL YEAR 2012 GENERAL REVENUE FUND ENDING BALANCE

Notwithstanding divisions (B) and (C) of section 131.44 of the Revised Code, the Director of Budget and Management shall determine the surplus General Revenue Fund revenue that existed on June 30, 2012, in excess of the amount required under division (A)(3) of section 131.44 of the Revised Code, and transfer from the General Revenue Fund, to the extent of the amount so determined, to the Statewide Treatment and Prevention Fund (Fund 4750), a cash amount of $1,000,000 and to the Long-Term Care Ombudsman Program Fund (Fund 4C40), a cash amount of $1,500,000.

Section 506.10. OHP HEALTH CARE GRANTS FUND

For fiscal year 2012 and fiscal year 2013, the Department of Job and Family Services may deposit into the OHP Health Care Grants Fund (Fund 3FA0) federal grants for the administration of health care programs that the Department receives under the "Patient Protection and Affordable Care Act," Public Law 111-148, and the "Health Care and Education Reconciliation Act of 2010," Public Law 111-152. The Department shall use the money in the fund to pay for expenses incurred in carrying out duties the Department assumes by accepting such federal grants, including expenses for the administration of health care programs.

Section 512.10. TRANSFER OF FUNDS FOR CASINO CONTROL COMMISSION OPERATIONS

During fiscal year 2013, the Director of Budget and Management may, in consultation with the Executive Director of the Casino Control Commission, transfer cash as necessary for operating expenses and casino investigations. The transfer shall be made from the General Revenue Fund to the Casino Control Commission Operating Fund (Fund 5HS0). Once funds from upfront license application fees and gross casino revenue taxes have been accumulated to sustain operations, the Director of Budget and Management, in consultation with the Executive Director of the Casino Control Commission, shall establish a repayment schedule for transfers to the General Revenue Fund from the Casino Control Commission Operating Fund (Fund 5HS0).

Section 512.20. PRE-SECURITIZATION TOBACCO PAYMENTS

The Pre-Securitization Tobacco Payments Fund (Fund 5LS0) is hereby created in the state treasury. All moneys received by the state in connection with releases from disputed payment accounts or amounts previously withheld under the Tobacco Master Settlement

Agreement that do not constitute pledged receipts for the Buckeye Tobacco Settlement Financing Authority Tobacco Settlement Bonds, Series 2007, shall be credited to the fund and used by the Director of Budget and Management as authorized in this section.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall determine, in consultation with the Attorney General, the amounts needed to fund tobacco enforcement-related activities and may transfer cash in those amounts from Fund 5LS0 to the Tobacco Oversight Administration and Enforcement Fund (Fund U087). The Director of Budget and Management may transfer remaining cash determined to be in excess of the tobacco enforcement needs of the Attorney General from Fund 5LS0 to the General Revenue Fund.

Upon receipt of all pre-securitization Tobacco Master Settlement Agreement payments and the transfer of all cash credited to Fund 5LS0 as authorized in this section, Fund 5LS0 is abolished.

On July 1, 2012, or as soon as possible thereafter, and upon the request of the Attorney General, the Director of Budget and Management may transfer up to $3,000,000 cash from the General Reimbursement Fund (Fund 1060) to the Tobacco Oversight Administration and Enforcement Fund (Fund U087).

Section 512.30. CASH TRANSFER FROM TRAUMA AND EMERGENCY MEDICAL SERVICES GRANTS FUND

On the effective date of this section, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Trauma and Emergency Medical Services Grants Fund (Fund 83P0) to the Trauma and Emergency Medical Services Fund (Fund 83M0). The Director shall cancel any existing encumbrances against appropriation item 765637, EMS Grants, and reestablish them against appropriation item 765640, EMS – Grants.

The reestablished encumbrance amounts are hereby appropriated.

Section 512.40. CASH TRANSFER FROM ELEMENTARY SCHOOL SEAT BELT FUND

On the effective date of this section, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Elementary School Seat Belt Fund (Fund 83N0) to the Trauma and Emergency Medical Services Fund (Fund 83M0). The Director shall cancel any existing encumbrances against appropriation item 761611, Elementary School Seat Belt Program, and reestablish them against appropriation item 765624, Operating Expense - Trauma and EMS. The reestablished encumbrance amounts are hereby appropriated.

Section 512.50. MEDICAID PROGRAM SUPPORT STATE FUND ABOLISHED

The Director of Budget and Management shall transfer any remaining cash balance in the Medicaid Program Support State Fund (Fund 5C90) to the Health Care/Medicaid Support and Recoveries Fund (Fund 5DL0) created under section 5111.941 of the Revised Code. The Medicaid Program Support State Fund (Fund 5C90) shall cease to exist once the transfer is complete.

Section 600.10. That Section 753.20 of Am. Sub. H.B. 114 of the 129th General Assembly be amended to read as follows:

Sec. 753.20. (A) The Governor is authorized to execute a deed in the name of the state conveying to Taylor Chevrolet, Inc. (hereinafter the "grantee"), its successors and assigns, all of the state's right, title, and interest in the following described real estate known as Ohio State Highway Patrol Post 23, 1125 Ety Road, in the City of Lancaster, County of Fairfield, State of Ohio, and in the land on which the post is situated~~.~~:

Being a part of Section 27, Township 15, Range 19, Greenfield Township, Fairfield County, Ohio and being more particularly described as follows:

Commencing at a point in the east line of Section 27 and in the centerline of U.S. Route 33 at Station 139 plus 53.38, (1941 Survey) as shown by plans on file with the Department of Highways, said point being N 1° 21' E, 452.70 feet from the southeast corner of said Section 27; thence, along said Section line, N 1° 21 min. E, 85.21 feet, to a point in the centerline of Township Road No. 201 and to an easement for electric power line of the Ohio Power Company, Deed Record Volume 166, Page 375, Recorder's Office, Fairfield County, Ohio, said point being the place of beginning of the tract herein described; thence, along said Section line and along the centerline of said Township Road, N 1° 21' E, 224.90 feet, to a point; thence, leaving said road, N 74° 38' 30" W, 226.61 feet, to a point; thence, S 28° 31' 30" W, 148.15 feet, to a point in the northerly right of way line of said U.S. Route 33; thence, along said northerly right of way line of said U.S. 33, S 62° 01' E, 122.04 feet to a point; thence, continuing along said right of way line, S 61° 19' E, 94.12 feet, to a point; thence, continuing along said right of way line, S 60° 52' E 107.24 feet, to a point, the place of beginning containing 1.11 acres, more or less.

The above described tract of land is subject to an easement for Highway purposes along Township Road No. 201.

(B) ~~In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the real estate in conformity with the actual bounds of the real estate.~~

~~(C)~~ Consideration for conveyance of the real estate shall be agreed upon between the Superintendent of the State Highway Patrol and the grantee.

~~(D)~~(C) The deed may contain any condition or restriction that the Governor determines is reasonably necessary to protect the state's interests.

~~(E)~~(D) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

~~(F)~~(E) Upon payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and any conditions or restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Fairfield County Recorder.

~~(G)~~(F) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the State Highway Safety Fund.

~~(H)~~(G) This section expires one year after its effective date.

Section 600.11. That existing Section 753.20 of Am. Sub. H.B. 114 of the 129th General Assembly is hereby repealed.

Section 601.10. That Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly, as amended by Am. Sub. H.B. 153 of the 129th General Assembly, be amended to read as follows:

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY

State Highway Safety Fund Group

4W40	762321	Operating Expense -	$ 80,003,146	$ ~~82,403,240~~

		BMV		82,003,240	
4W40	762410	Registrations Supplement	$ 28,945,176	$ 29,813,532	76221
5V10	762682	License Plate Contributions	$ 2,100,000	$ 2,100,000	76222
7036	761321	Operating Expense - Information and Education	$ 7,124,366	$ ~~7,338,097~~ 6,988,097	76223
7036	761401	Lease Rental Payments	$ 9,978,300	$ 2,315,700	76224
7036	764033	Minor Capital Projects	$ 1,250,000	$ 1,250,000	76225
7036	764321	Operating Expense - Highway Patrol	$ 260,744,934	$ 258,365,903	76226
7036	764605	Motor Carrier Enforcement Expenses	$ 2,860,000	$ 2,860,000	76227
8300	761603	Salvage and Exchange - Administration	$ 19,469	$ 20,053	76228
8310	761610	Information and Education - Federal	$ 422,084	$ ~~434,746~~ 409,746	76229
8310	764610	Patrol - Federal	$ 2,209,936	$ 2,276,234	76230
8310	764659	Transportation Enforcement - Federal	$ 5,519,333	$ 5,684,913	76231
8310	765610	EMS - Federal	$ 532,007	$ 532,007	76232
8310	769610	~~Food Stamp Trafficking Enforcement - Federal~~ Investigative Unit Federal Reimbursement	$ 1,546,319	$ 1,546,319	76233
8310	769631	Homeland Security - Federal	$ 2,184,000	$ 2,184,000	76234
8320	761612	Traffic Safety - Federal	$ 16,577,565	$ 16,577,565	76235
8350	762616	Financial Responsibility Compliance	$ 5,457,240	$ ~~5,549,068~~ 5,274,068	76236

8370	764602	Turnpike Policing	$ 11,553,959	$ 11,553,959	76237
8380	764606	Patrol Reimbursement	$ 50,000	$ 50,000	76238
83C0	764630	Contraband, Forfeiture, Other	$ 622,894	$ 622,894	76239
83F0	764657	Law Enforcement Automated Data System	$ 9,053,266	$ 9,053,266	76240
83G0	764633	OMVI Enforcement/Education	$ 623,230	$ 641,927	76241
83J0	764693	Highway Patrol Justice Contraband	$ 2,100,000	$ 2,100,000	76242
83M0	765624	Operating Expense - Trauma and EMS	$ 2,632,106	$ ~~2,711,069~~ 3,204,925	76243
83M0	765640	EMS - Grants	$ 0	$ 4,229,819	76244
83N0	761611	Elementary School Seat Belt Program	$ 305,600	$ ~~305,600~~ 0	76245
83P0	765637	EMS Grants	$ 4,106,621	$ ~~4,229,819~~ 0	76246
83R0	762639	Local Immobilization Reimbursement	$ 450,000	$ 450,000	76247
83T0	764694	Highway Patrol Treasury Contraband	$ 21,000	$ 21,000	76248
8400	764607	State Fair Security	$ 1,256,655	$ 1,294,354	76249
8400	764617	Security and Investigations	$ 6,432,686	$ 6,432,686	76250
8400	764626	State Fairgrounds Police Force	$ 849,883	$ 849,883	76251
8400	769632	Homeland Security - Operating	$ 737,791	$ 737,791	76252
8410	764603	Salvage and Exchange - Highway Patrol	$ 1,339,399	$ 1,339,399	76253
8460	761625	Motorcycle Safety Education	$ 3,185,013	$ 3,280,563	76254
8490	762627	Automated Title Processing Board	$ 17,316,755	$ 14,335,513	76255

TOTAL HSF State Highway Safety Fund Group			$ 490,110,733	$ ~~481,261,100~~ 480,399,356	76256
General Services Fund Group					76257
4P60	768601	Justice Program Services	$ 998,104	$ 1,028,047	76258
4S30	766661	Hilltop Utility Reimbursement	$ 540,800	$ 540,800	76259
5ET0	768625	Drug Law Enforcement	$ 3,780,000	$ 3,893,400	76260
5Y10	764695	Highway Patrol Continuing Professional Training	$ 170,000	$ 170,000	76261
5Y10	767696	Investigative Unit Continuing Professional Training	$ 15,000	$ 15,000	76262
TOTAL GSF General Services Fund Group			$ 5,503,904	$ 5,647,247	76263
Federal Special Revenue Fund Group					76264
3290	763645	Federal Mitigation Program	$ 10,110,332	$ 10,413,642	76265
3370	763609	Federal Disaster Relief	$ 27,707,636	$ 27,707,636	76266
3390	763647	Emergency Management Assistance and Training	$ 75,664,821	$ 77,934,765	76267
3CB0	768691	Federal Justice Grants - FFY06	$ 200,000	$ 50,000	76268
3CC0	768609	Justice Assistance Grants - FFY07	$ 583,222	$ 310,000	76269
3CD0	768610	Justice Assistance Grants – FFY08	$ 310,000	$ 150,000	76270
3CE0	768611	Justice Assistance Grants – FFY09	$ 865,000	$ 1,200,000	76271

3CV0	768697	Justice Assistance Grants Supplement – FFY08	$ 2,000	$ 0	76272
3DE0	768612	Federal Stimulus - Justice Assistance Grants	$ 1,015,000	$ 1,015,000	76273
3DH0	768613	Federal Stimulus - Justice Programs	$ 150,000	$ 150,000	76274
3DU0	762628	BMV Grants	$ 1,525,000	$ ~~1,580,000~~ 1,480,000	76275
3EU0	768614	Justice Assistance Grants – FFY10	$ 650,000	$ 920,000	76276
3L50	768604	Justice Program	$ 11,400,000	$ 11,400,000	76277
3N50	763644	U.S. Department of Energy Agreement	$ 31,672	$ 31,672	76278
TOTAL FED Federal Special Revenue Fund Group			$ 130,214,683	$ ~~132,862,715~~ 132,762,715	76279
State Special Revenue Fund Group					76280
4V30	763662	EMA Service and Reimbursement	$ 4,368,369	$ 4,499,420	76281
5390	762614	Motor Vehicle Dealers Board	$ 180,000	$ 185,400	76282
5B90	766632	Private Investigator and Security Guard Provider	$ 1,562,637	$ 1,562,637	76283
5BK0	768687	Criminal Justice Services - Operating	$ 400,000	$ 400,000	76284
5BK0	768689	Family Violence Shelter Programs	$ 750,000	$ 750,000	76285
5CM0	767691	~~Federal Investigative Seizure~~ Investigative Unit Federal Equitable Sharing -	$ 300,000	$ 300,000	76286

		Treasury			
5DS0	769630	Homeland Security	$ 1,414,384	$ 1,414,384	76287
5FF0	762621	Indigent Interlock and Alcohol Monitoring	$ 2,000,000	$ 2,000,000	76288
5FL0	769634	Investigations	$ 899,300	$ 899,300	76289
5LM0	768698	Criminal Justice Services Law Enforcement Support	$ 33,991	$ 816,955	76290
6220	767615	Investigative Contraband and Forfeiture	$ 375,000	$ 375,000	76291
6570	763652	Utility Radiological Safety	$ 1,415,945	$ 1,415,945	76292
6810	763653	SARA Title III HAZMAT Planning	$ 262,438	$ 262,438	76293
8500	767628	Investigative Unit Salvage	$ 90,000	$ 92,700	76294
TOTAL SSR State Special Revenue Fund Group			$ ~~14,018,073~~ 14,052,064	$ ~~14,157,224~~ 14,974,179	76295
Liquor Control Fund Group					76296
7043	767321	Liquor Enforcement - Operating	$ 11,000,000	$ 11,000,000	76297
TOTAL LCF Liquor Control Fund Group			$ 11,000,000	$ 11,000,000	76298
Agency Fund Group					76299
5J90	761678	Federal Salvage/GSA	$ 1,500,000	$ 1,500,000	76300
TOTAL AGY Agency Fund Group			$ 1,500,000	$ 1,500,000	76301
Holding Account Redistribution Fund Group					76302
R024	762619	Unidentified Motor Vehicle Receipts	$ 1,885,000	$ 1,885,000	76303
R052	762623	Security Deposits	$ 350,000	$ 350,000	76304
TOTAL 090 Holding Account			$ 2,235,000	$ 2,235,000	76305

Redistribution Fund Group			
TOTAL ALL BUDGET FUND GROUPS	$ ~~654,582,393~~ 654,616,384	$ ~~648,663,286~~ 648,518,497	76306

MOTOR VEHICLE REGISTRATION 76307

The Registrar of Motor Vehicles may deposit revenues to meet the cash needs of the State Bureau of Motor Vehicles Fund (Fund 4W40) established in section 4501.25 of the Revised Code, obtained under sections 4503.02 and 4504.02 of the Revised Code, less all other available cash. Revenue deposited pursuant to this paragraph shall support, in part, appropriations for operating expenses and defray the cost of manufacturing and distributing license plates and license plate stickers and enforcing the law relative to the operation and registration of motor vehicles. Notwithstanding section 4501.03 of the Revised Code, the revenues shall be paid into Fund 4W40 before any revenues obtained pursuant to sections 4503.02 and 4504.02 of the Revised Code are paid into any other fund. The deposit of revenues to meet the aforementioned cash needs shall be in approximately equal amounts on a monthly basis or as otherwise determined by the Director of Budget and Management pursuant to a plan submitted by the Registrar of Motor Vehicles. 76308 76309 76310 76311 76312 76313 76314 76315 76316 76317 76318 76319 76320 76321 76322 76323 76324

CAPITAL PROJECTS 76325

The Registrar of Motor Vehicles may transfer cash from the State Bureau of Motor Vehicles Fund (Fund 4W40) to the State Highway Safety Fund (Fund 7036) to meet its obligations for capital projects CIR-047, Department of Public Safety Office Building and CIR-049, Warehouse Facility. 76326 76327 76328 76329 76330

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS 76331

The foregoing appropriation item 761401, Lease Rental Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2011, to June 30, 2013, under the 76332 76333 76334

primary leases and agreements for public safety related buildings financed by obligations issued under Chapter 152. of the Revised Code. Notwithstanding section 152.24 of the Revised Code, the Ohio Building Authority may, with approval of the Director of Budget and Management, lease capital facilities to the Department of Public Safety.

HILLTOP TRANSFER

The Director of Public Safety shall determine, per an agreement with the Director of Transportation, the share of each debt service payment made out of appropriation item 761401, Lease Rental Payments, that relates to the Department of Transportation's portion of the Hilltop Building Project, and shall certify to the Director of Budget and Management the amounts of this share. The Director of Budget and Management shall transfer the amounts of such shares from the Highway Operating Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036).

CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Seat Belt Education Fund (Fund 8440) to the Trauma and Emergency Medical Services Fund (Fund 83M0). Upon completion of the transfer, Fund 8440 is abolished. The Director shall cancel any existing encumbrances against appropriation item 761613, Seat Belt Education Program, and reestablish them against appropriation item 765624, Operating Expense - Trauma and EMS. The reestablished encumbrance amounts are hereby appropriated.

CASH TRANSFERS BETWEEN FUNDS

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, upon the written request of the Director of Public Safety, may approve the transfer of cash

between the following six funds: the Trauma and Emergency Medical Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), the Investigations Fund (Fund 5FL0), the Emergency Management Agency Service and Reimbursement Fund (Fund 4V30), the Justice Program Services Fund (Fund 4P60), and the State Bureau of Motor Vehicles Fund (Fund 4W40).

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, upon the written request of the Director of Public Safety, may approve the transfer of cash from the Continuing Professional Training Fund (Fund 5Y10), the State Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), the Trauma and Emergency Medical Services Fund (Fund 83M0), and the Highway Safety Salvage and Exchange Highway Patrol Fund (Fund 8410) to the Security, Investigations, and Policing Fund (Fund 8400).

CASH TRANSFERS OF SEAT BELT FINE REVENUES

Notwithstanding any provision of law to the contrary, the Controlling Board, upon request of the Director of Public Safety, may approve the transfer of cash between the following ~~four~~ three funds that receive fine revenues from enforcement of the mandatory seat belt law: the Trauma and Emergency Medical Services Fund (Fund 83M0), the Elementary School Program Fund (Fund 83N0), and the Trauma and Emergency Medical Services Grants Fund (Fund 83P0).

STATE DISASTER RELIEF

The State Disaster Relief Fund (Fund 5330) may accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency disaster response costs and disaster program management costs, and may also be used for the following purposes:

(A) To accept transfers of cash and appropriations from

Controlling Board appropriation items for Ohio Emergency Management Agency public assistance and mitigation program match costs to reimburse eligible local governments and private nonprofit organizations for costs related to disasters;

(B) To accept and transfer cash to reimburse the costs associated with Emergency Management Assistance Compact (EMAC) deployments;

(C) To accept disaster related reimbursement from federal, state, and local governments. The Director of Budget and Management may transfer cash from reimbursements received by this fund to other funds of the state from which transfers were originally approved by the Controlling Board.

(D) To accept transfers of cash and appropriations from Controlling Board appropriation items to fund the State Disaster Relief Program, for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

JUSTICE ASSISTANCE GRANT FUND

The federal payments made to the state for the Byrne Justice Assistance Grants Program under Title II of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Justice Assistance Grant Fund (Fund 3DE0), which is hereby created in the state treasury. All investment earnings of the fund shall be credited to the fund.

FEDERAL STIMULUS – JUSTICE PROGRAMS

The federal payments made to the state for the Violence Against Women Formula Grant under Title II of Division A of the

American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Federal Stimulus – Justice Programs Fund (Fund 3DH0).

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT AGENCY SERVICE AND REIMBURSEMENT FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer $200,000 in cash from the State Fire Marshal Fund (Fund 5460) to the Emergency Management Agency Service and Reimbursement Fund (Fund 4V30) to be distributed to the Ohio Task Force One – Urban Search and Rescue Unit and other urban search and rescue programs around the state.

FAMILY VIOLENCE PREVENTION FUND

Notwithstanding any provision of law to the contrary, in each of fiscal years 2012 and 2013, the first $750,000 received to the credit of the Family Violence Prevention Fund (Fund 5BK0) shall be appropriated to appropriation item 768689, Family Violence Shelter Programs, and the next $400,000 received to the credit of Fund 5BK0 in each of those fiscal years shall be appropriated to appropriation item 768687, Criminal Justice Services - Operating. Any moneys received to the credit of Fund 5BK0 in excess of the aforementioned appropriated amounts in each fiscal year shall, upon the approval of the Controlling Board, be used to provide grants to family violence shelters in Ohio.

SARA TITLE III HAZMAT PLANNING

The SARA Title III HAZMAT Planning Fund (Fund 6810) is entitled to receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.

COLLECTIVE BARGAINING INCREASES

Notwithstanding division (D) of section 127.14 and division (B) of section 131.35 of the Revised Code, except for the General Revenue Fund, the Controlling Board may, upon the request of either the Director of Budget and Management, or the Department of Public Safety with the approval of the Director of Budget and Management, increase appropriations for any fund, as necessary for the Department of Public Safety, to assist in paying the costs of increases in employee compensation that have occurred pursuant to collective bargaining agreements under Chapter 4117. of the Revised Code and, for exempt employees, under section 124.152 of the Revised Code.

CASH BALANCE FUND REVIEW

Not later than the first day of April in each fiscal year of the biennium, the Director of Budget and Management shall review the cash balances for each fund, except the State Highway Safety Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 4W40), in the State Highway Safety Fund Group, and shall recommend to the Controlling Board an amount to be transferred to the credit of Fund 7036 or Fund 4W40, as appropriate.

Section 601.11. That existing Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly, as amended by Am. Sub. H.B. 153 of the 129th General Assembly, is hereby repealed.

Section 601.20. That Section 201 of Sub. H.B. 123 of the 129th General Assembly be amended to read as follows:

Sec. 201. All items in Sections 201 and 203 of this act are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2012, and those in the second column are for fiscal year 2013.

FND	AI	AI TITLE	Appropriations		76487
		BWC BUREAU OF WORKERS' COMPENSATION			76488
Workers' Compensation Fund Group					76489
7023	855401	William Green Lease Payments to OBA	$ 18,291,365	$ 17,533,370	76490
7023	855407	Claims, Risk and Medical Management	$ 125,427,732	~~124,192,959~~ 122,492,959	76491
7023	855408	Fraud Prevention	$ 11,331,154	$ 11,164,226	76492
7023	855409	Administrative Services	$ 101,724,950	~~104,136,037~~ 103,346,037	76493
7023	855410	Attorney General Payments	$ 4,621,850	$ 4,621,850	76494
8220	855606	Coal Workers' Fund	$ 150,586	$ 147,666	76495
8230	855608	Marine Industry	$ 76,532	$ 75,527	76496
8250	855605	Disabled Workers Relief Fund	$ 322,266	$ 319,718	76497
8260	855609	Safety and Hygiene Operating	$ 20,382,567	$ 20,161,132	76498
8260	855610	Gear Program	$ 4,000,000	$ 4,000,000	76499
8290	855604	Long Term Care Loan Program	$ 1,000,000	~~1,000,000~~ 100,000	76500
TOTAL WCF Workers' Compensation Fund Group			$ 287,329,002	~~287,352,485~~ 283,962,485	76501 76502
Federal Special Revenue Fund Group					76503
3490	855601	OSHA Enforcement	$ 1,670,998	$ 1,647,515	76504
TOTAL FED Federal Special Revenue Fund Group			$ 1,670,998	$ 1,647,515	76505
TOTAL ALL BUDGET FUND GROUPS			$ 289,000,000	~~289,000,000~~ 285,610,000	76506

WILLIAM GREEN LEASE PAYMENTS 76507

The foregoing appropriation item 855401, William Green Lease 76508

Payments to OBA, shall be used for lease payments to the Ohio Building Authority, and these appropriations shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, to June 30, 2013, by the Bureau of Workers' Compensation to the Ohio Building Authority pursuant to leases and agreements made under Chapter 152. of the Revised Code and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. Of the amounts received in Fund 7023, appropriation item 855401, William Green Lease Payments to OBA, up to $35,824,735 shall be restricted for lease rental payments to the Ohio Building Authority. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

Notwithstanding any provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 7023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 7023) by intrastate transfer voucher.

WORKERS' COMPENSATION FRAUD UNIT

The Workers' Compensation Section Fund (Fund 1950) administered by the Attorney General shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office. Of the foregoing appropriation item 855410, Attorney General Payments, $828,200 in fiscal year 2012 and $828,200 in fiscal year 2013 shall be used to provide these payments.

SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall transfer $20,382,567 cash in fiscal year 2012 and $20,161,132 cash in fiscal year 2013 from the State Insurance Fund to the Safety and Hygiene Fund (Fund 8260).

OSHA ON-SITE CONSULTATION PROGRAM

The Bureau of Workers' Compensation may designate a portion of appropriation item 855609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

VOCATIONAL REHABILITATION

The Bureau of Workers' Compensation and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The bureau shall provide $605,407 in fiscal year 2012 and $605,407 in fiscal year 2013 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.

FUND BALANCE

Any unencumbered cash balance in excess of $45,000,000 in the Workers' Compensation Fund (Fund 7023) on the thirtieth day of June of each fiscal year shall be used to reduce the administrative cost rate charged to employers to cover appropriations for Bureau of Workers' Compensation operations.

Section 601.21. That existing Section 201 of Sub. H.B. 123 of the 129th General Assembly is hereby repealed.

Section 601.30. That Section 1 of H.B. 124 of the 129th General Assembly be amended to read as follows:

Sec. 1. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this section, those in the first column are for fiscal year 2012, and those in the second column are for fiscal year 2013.

		Appropriations	
FND AI	AI TITLE	FY 2012	FY 2013
	OIC INDUSTRIAL COMMISSION		
Workers' Compensation Fund Group			
5W30 845321	Operating Expenses	$ 50,100,000	$ ~~48,900,000~~ 47,732,000
5W30 845402	Rent - William Green Building	$ 5,500,000	$ 5,500,000
5W30 845410	Attorney General Payments	$ 3,900,000	$ 4,000,000
TOTAL WCF Workers' Compensation Fund Group		$ 59,500,000	$ ~~58,400,000~~ 57,232,000
TOTAL ALL BUDGET FUND GROUPS		$ 59,500,000	$ ~~58,400,000~~ 57,232,000

RENT - WILLIAM GREEN BUILDING

The foregoing appropriation item 845402, Rent - William Green Building, shall be used for rent and operating expenses for the space occupied by the Industrial Commission in the William Green Building.

Section 601.31. That existing Section 1 of H.B. 124 of the 129th General Assembly is hereby repealed.

Section 601.40. That Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, 209.30, 211.10, 215.10, 215.20, 223.10, 229.10, 243.10, 261.10.40, 261.10.70, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 267.10.40, 267.30.20, 267.30.40, 279.10, 283.10, 287.10, 291.10, 307.10, 309.10,

309.30.10, 309.30.30, 309.30.33, 309.30.53, 309.30.73, 313.10, 315.10, 323.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 367.10, 369.10, 371.10, 371.30.30, 371.50.61, 371.50.65, 371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, and 521.70 of Am. Sub. H.B. 153 of the 129th General Assembly be amended to read as follows:

Sec. 205.10. ADJ ADJUTANT GENERAL

General Revenue Fund					
GRF	745401	Ohio Military Reserve	$ 12,308	$ 12,308	
GRF	745404	Air National Guard	$ 1,810,606	$ 1,810,606	
GRF	745407	National Guard Benefits	$ 400,000	$ 400,000	
GRF	745409	Central Administration	$ 2,692,098	~~2,692,098~~ 2,682,098	
GRF	745499	Army National Guard	$ 3,687,888	$ 3,689,871	
TOTAL GRF General Revenue Fund			$ 8,602,900	~~8,604,883~~ 8,594,883	
General Services Fund Group					
5340	745612	Property Operations Management	$ 534,304	$ 534,304	
5360	745605	Marksmanship Activities	$ 128,600	$ 128,600	
5360	745620	Camp Perry and Buckeye Inn Operations	$ 1,178,311	$ 978,846	
5370	745604	Ohio National Guard Facilities Maintenance	$ 62,000	$ 62,000	
TOTAL GSF General Services Fund Group			$ 1,903,215	$ 1,703,750	

Federal Special Revenue Fund Group					76613
3410	745615	Air National Guard Base Security	$ 2,977,692	$ 2,977,692	76614
3420	745616	Army National Guard Service Agreement	$ 10,970,050	$ 10,970,050	76615
3E80	745628	Air National Guard Operations and Maintenance	$ 16,958,595	$ 16,958,595	76616
3R80	745603	Counter Drug Operations	$ 25,000	$ 25,000	76617
TOTAL FED Federal Special Revenue Fund Group			$ 30,931,337	$ 30,931,337	76618
State Special Revenue Fund Group					76619
5U80	745613	Community Match Armories	$ 250,000	$ 250,000	76620
TOTAL SSR State Special Revenue Fund Group			$ 250,000	$ 250,000	76621
TOTAL ALL BUDGET FUND GROUPS			$ 41,687,452	$ ~~41,489,970~~ 41,479,970	76622

NATIONAL GUARD BENEFITS 76623

The foregoing appropriation item 745407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs. 76624 76625 76626 76627

For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the member's Servicemembers' Group Life Insurance Policy. 76628 76629 76630 76631 76632

STATE ACTIVE DUTY COSTS 76633

Of the foregoing appropriation item 745409, Central 76634

Administration, $50,000 in each fiscal year shall be used for the purpose of paying expenses related to state active duty of members of the Ohio organized militia, in accordance with a proclamation of the Governor. Expenses include, but are not limited to, the cost of equipment, supplies, and services, as determined by the Adjutant General's Department.

Sec. 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

General Revenue Fund

GRF	100403	Public Employees Health Care Program	$ 400,000	$ ~~400,000~~ 344,000
GRF	100415	OAKS Rental Payments	$ 23,024,500	$ 23,006,300
GRF	100416	STARS Lease Rental Payments	$ 4,970,700	$ 4,971,300
GRF	100418	Web Sites and Business Gateway	$ 2,895,063	$ ~~2,795,176~~ 0
GRF	100419	IT Security Infrastructure	$ 742,535	$ ~~742,648~~ 0
GRF	100439	Equal Opportunity Certification Programs	$ 625,000	$ ~~625,000~~ 0
GRF	100447	OBA - Building Rent Payments	$ 53,260,000	$ 83,504,200
GRF	100448	OBA - Building Operating Payments	$ 21,000,000	$ ~~21,000,000~~ 20,000,000
GRF	100449	DAS - Building Operating Payments	$ 7,551,245	$ 7,551,571
GRF	100451	Minority Affairs	$ 24,016	$ ~~24,016~~ 0
GRF	100452	Efficiency & Results Program	$ 0	$ 650,000
GRF	100456	State IT Services	$ 0	$ 3,537,824
GRF	100457	Equal Opportunity Services	$ 0	$ 1,610,516

GRF	100458	State Construction Management Services	$ 0	$ 2,745,751	76656
GRF	102321	Construction Compliance	$ 920,000	$ ~~920,000~~ 0	76657
GRF	130321	State Agency Support Services	$ 2,779,457	$ ~~2,780,032~~ 2,752,232	76658
TOTAL GRF General Revenue Fund			$ 118,192,516	$ ~~148,320,243~~ 150,673,694	76659
General Services Fund Group					76660
1120	100616	DAS Administration	$ 5,974,625	$ ~~5,886,524~~ 5,827,659	76661
1150	100632	Central Service Agency	$ 911,995	$ ~~912,305~~ 903,182	76662
1170	100644	General Services Division - Operating	$ 13,000,000	$ 13,000,000	76663
1220	100637	Fleet Management	$ 3,978,827	$ ~~4,204,066~~ 4,412,025	76664
1250	100622	Human Resources Division - Operating	$ 16,922,295	$ ~~16,717,009~~ 16,549,839	76665
1250	100657	Benefits Communication	$ 925,586	$ ~~921,531~~ 912,316	76666
1280	100620	Collective Bargaining	$ 3,462,529	$ ~~3,464,148~~ 3,429,507	76667
1300	100606	Risk Management Reserve	$ 10,349,494	$ ~~12,149,884~~ 12,028,385	76668
1310	100639	State Architect's Office	$ 9,812,132	$ ~~9,813,342~~ 9,463,342	76669
1320	100631	DAS Building Management	$ 11,000,000	$ 11,000,000	76670
1330	100607	IT Services Delivery	$ 58,088,940	$ ~~58,103,005~~ 57,521,975	76671
1880	100649	Equal Opportunity Division - Operating	$ 939,559	$ 863,013	76672

2100	100612	State Printing	$ 17,597,054	$ 16,659,526	76673
2290	100630	IT Governance	$ 14,000,000	$ 14,000,000	76674
2290	100640	Leveraged Enterprise Purchases	$ 3,000,000	$ ~~3,000,000~~ 2,816,535	76675
4270	100602	Investment Recovery	$ 4,100,000	$ ~~4,100,000~~ 4,000,000	76676
4N60	100617	Major IT Purchases	$ 1,950,000	$ 4,950,000	76677
4P30	100603	DAS Information Services	$ 5,047,565	$ ~~4,979,392~~ 4,929,598	76678
5C20	100605	MARCS Administration	$ 14,075,705	$ 14,077,467	76679
5C30	100608	Skilled Trades	$ 404,297	$ ~~404,375~~ 204,375	76680
5EB0	100635	OAKS Support Organization	$ 19,000,539	$ ~~19,003,108~~ 18,813,077	76681
5EB0	100656	OAKS Updates and Developments	$ 12,265,952	$ ~~8,743,462~~ 8,656,027	76682
5HU0	100655	Construction Reform Demo Compliance	$ 150,000	$ 150,000	76683
5L70	100610	Professional Development	$ 2,496,679	$ 2,496,760	76684
5V60	100619	Employee Educational Development	$ 800,000	$ 850,000	76685
5X30	100634	Centralized Gateway Enhancement	$ 2,052,308	$ 2,052,308	76686
TOTAL GSF General Services Fund Group			$ 232,306,081	$ ~~232,501,225~~ 230,566,916	76687 76688
Federal Special Revenue Fund Group					76689
3AJ0	100654	ARRA Broadband Mapping Grant	$ 270,756	$ 106,347	76690
TOTAL FED Federal Special Revenue Fund Group			$ 270,756	$ 106,347	76691 76692
State Special Revenue Fund Group					76693

5JQ0 100658	~~Professions~~ Professionals Licensing System	$ 2,000,000	$ ~~1,000,000~~ 990,000	76694
TOTAL SSR State Special Revenue Fund Group		$ 2,000,000	$ ~~1,000,000~~ 990,000	76695 76696
TOTAL ALL BUDGET FUND GROUPS		$ 352,769,353	$ ~~381,927,815~~ 382,336,957	76697

Sec. 207.10.80. DAS - BUILDING OPERATING PAYMENTS 76699

The foregoing appropriation item 100449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2012 and 2013. 76700 76701 76702 76703

The foregoing appropriation item, 100449, DAS - Building Operating Payments, also may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state. 76704 76705 76706 76707 76708 76709

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants, or other costs associated with the Voinovich Center in Youngstown, Ohio. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated because of building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 1320). 76710 76711 76712 76713 76714 76715 76716 76717 76718 76719 76720 76721

STATE IT SERVICES

The foregoing appropriation item 100456, State IT Services, shall be used to pay costs associated with the Ohio Business Gateway, State Portal, and Shared Hosting Service that were formerly paid from appropriation item 100418, Web Sites and Business Gateway, and costs associated with statewide operators and the Ohio Geographically Referenced Information Program that were formerly paid from appropriation item 100419, IT Security Infrastructure. The Director of Budget and Management shall cancel any existing encumbrances against appropriation items 100418, Web Site and Business Gateway and 100419, IT Security Infrastructure, and reestablish them against appropriation item 100456, State IT Services. The reestablished encumbrance amounts are hereby appropriated.

EQUAL OPPORTUNITY SERVICES

The foregoing appropriation item 100457, Equal Opportunity Services, shall be used to pay costs associated with the certification of businesses for participation in the Minority Business Enterprise and Encouraging Diversity, Growth and Equity Programs that were formerly paid from appropriation item 100439, Equal Opportunity Certification Programs; the activities of the Ohio Dr. Martin Luther King, Jr. Holiday Commission that were formerly paid from appropriation item 100451, Minority Affairs; and the monitoring of equal employment opportunity (EEO) and affirmative action requirements to ensure contractors bidding on and receiving contracts comply with EEO laws, rules, and regulations that were formerly paid from appropriation item 102321, Construction Compliance. The Director of Budget and Management shall cancel any existing encumbrances against appropriation items 100439, Equal Opportunity Certification Programs; 100451, Minority Affairs; and 102321, Construction Compliance, and reestablish them against appropriation item

100457, Equal Opportunity Services. The reestablished encumbrance amounts are hereby appropriated.

STATE CONSTRUCTION MANAGEMENT SERVICES

The foregoing appropriation item 100458, State Construction Management Services, shall be used to pay costs of statewide shared construction-related services and capital improvement project management services provided through the state's enterprise resource planning system.

CASH TRANSFER FROM THE WORKFORCE DEVELOPMENT FUND TO THE HUMAN RESOURCES SERVICES FUND

Upon request of the Director of Administrative Services, in FY 2013, the Director of Budget and Management shall transfer up to $975,000 from the Workforce Development Fund (Fund 5D70) to the Human Resources Services Fund (Fund 1250) to support one-time human resources administration activities for state agencies.

Sec. 207.20.10. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs funded by the General Services Fund (Fund 1170) and the State Printing Fund (Fund 2100). Such charges within Fund 1170 may be used to recover the cost of paying a vendor to establish reduced pricing for contracted supplies or services.

If the Director of Administrative Services determines that additional amounts are necessary to pay for consulting and administrative costs related to securing lower pricing, the Director of Administrative Services may request that the Director of Budget and Management approve additional expenditures. Such approved additional amounts are appropriated to appropriation item 100644, General Services Division-Operating.

Sec. 207.20.30. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 1880). These charges shall be deposited to the credit of the State EEO Fund (Fund 1880) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

LEVERAGED ENTERPRISE PURCHASES

The foregoing appropriation item 100640, Leveraged Enterprise Purchases, shall be used by the Department of Administrative Services to make information technology purchases for the benefit of one or more government entities as authorized under division (G) of section 125.18 of the Revised Code. If the Director of Administrative Services determines that the existing appropriation is insufficient to timely make such purchases, the Director of Administrative Services shall seek Controlling Board approval for an increase in appropriation to make the requested purchases.

Sec. 207.20.90. ~~CASH TRANSFERS FROM THE MAJOR IT PURCHASES FUND~~

~~Upon request of the Director of Administrative Services, the Director of Budget and Management may make the following transfers from the Major IT Purchases Fund (Fund 4N60):~~

~~(1) Up to $2,800,000 in each fiscal year of the biennium to the State Architect's Fund (Fund 1310) to support the OAKS Capital Improvements Module and other costs of the State Architect's Office that are not directly related to capital projects managed by the State Architect;~~

~~(2) Up to $310,276 in fiscal year 2012 and up to $305,921 in fiscal year 2013 to the Director's Office Fund (Fund 1120) to support operating expenses of the Accountability and Results Initiative.~~

CASH TRANSFERS TO THE MAJOR IT PURCHASES FUND

Upon request of the Director of Administrative Services, the Director of Budget and Management may transfer up to $4,000,000 from the OAKS Support Organization Fund (Fund 5EB0) to the Major IT Purchases Fund (Fund 4N60). This amount represents cash transferred from Fund 4N60 during fiscal year 2010 pursuant to Section 207.30.80 of Am. Sub. H.B. 1 of the 128th General Assembly. Any portion of appropriation item 100617, Major IT Purchases, that is unencumbered and unexpended at the end of fiscal year 2012 is hereby reappropriated for fiscal year 2013.

Sec. 209.10. AGE DEPARTMENT OF AGING

General Revenue Fund					
GRF	490321	Operating Expenses	$ 1,501,616	$	~~1,502,442~~ 1,487,418
GRF	490410	Long-Term Care Ombudsman	$ 482,271	$	~~482,271~~ 477,448
GRF	490411	Senior Community Services	$ 7,130,952	$	~~7,131,236~~ 7,060,844
GRF	490414	Alzheimer's Respite	$ 1,917,740	$	~~1,917,757~~ 1,895,245
GRF	490423	Long-Term Care Budget - State	$ 3,419,250	$	~~3,419,250~~ 3,385,057
GRF	490506	National Senior Service Corps	$ 241,413	$	241,413
TOTAL GRF General Revenue Fund			$ 14,693,242	$	~~14,694,369~~ 14,547,425
General Services Fund Group					

4800	490606	Senior Community Outreach and Education	$ 372,518	$ 372,523	76838
TOTAL GSF General Services Fund Group			$ 372,518	$ 372,523	76839 76840
Federal Special Revenue Fund Group					76841
3220	490618	Federal Aging Grants	$ 14,000,000	$ 14,000,000	76842
3C40	490623	Long-Term Care Budget	$ 3,525,000	$ 3,525,000	76843
3M40	490612	Federal Independence Services	$ 63,655,080	$ 63,655,080	76844
TOTAL FED Federal Special Revenue Fund Group			$ 81,180,080	$ 81,180,080	76845 76846
State Special Revenue Fund Group					76847
4C40	490609	Regional Long-Term Care Ombudsman Program	$ 935,000	$ ~~935,000~~ 2,435,000	76848
5BA0	490620	Ombudsman Support	$ 750,000	$ 750,000	76849
5K90	490613	Long-Term Care Consumers Guide	$ 1,059,400	$ 1,059,400	76850
5W10	490616	Resident Services Coordinator Program	$ 344,692	$ 344,700	76851
TOTAL SSR State Special Revenue Fund Group			$ 3,089,092	$ ~~3,089,100~~ 4,589,100	76852 76853
TOTAL ALL BUDGET FUND GROUPS			$ 99,334,932	$ ~~99,336,072~~ 100,689,128	76854

Sec. 209.20. LONG-TERM CARE 76856

Pursuant to an interagency agreement, the Department of Job and Family Services ~~shall~~ may designate the Department of Aging to perform assessments under section 5111.204 of the Revised Code. The Department of Aging shall provide long-term care consultations 76857 76858 76859 76860

under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation items 490423, Long-Term Care Budget - State, and 490623, Long-Term Care Budget, may be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

Sec. 209.30. LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code.

SENIOR COMMUNITY SERVICES

The foregoing appropriation item 490411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.

ALZHEIMER'S RESPITE

The foregoing appropriation item 490414, Alzheimer's Respite,

shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

SENIOR COMMUNITY OUTREACH AND EDUCATION

The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code.

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS

At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting of the board.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM

~~The~~ Of the foregoing appropriation item 490609, Regional Long-Term Care Ombudsman Program, $935,000 in each fiscal year shall be used to pay the costs of operating the regional long-term care ombudsman programs designated by the Long-Term Care Ombudsman.

Notwithstanding division (B) of section 173.26 of the Revised Code, of the foregoing appropriation item 490609, Regional Long-Term Care Ombudsman Program, $1,500,000 in fiscal year 2013 shall be used for costs associated with the Aging in Place Pilot Program.

TRANSFER OF RESIDENT PROTECTION FUNDS

In each fiscal year, the Director of Budget and Management

may transfer up to $750,000 cash from the Resident Protection Fund (Fund 4E30), which is used by the Department of Job and Family Services, to the Ombudsman Support Fund (Fund 5BA0), which is used by the Department of Aging. The moneys in the Ombudsman Support Fund may be used by the state office of the Long-Term Care Ombudsman Program and by regional ombudsman programs to promote person-centered care in nursing homes.

On July 1, 2011, or as soon as possible thereafter, the Department of Aging shall certify to the Director of Budget and Management the amount of the cash balance in the Ombudsman Support Fund at the end of fiscal year 2011.

LONG-TERM CARE CONSUMERS GUIDE

The foregoing appropriation item 490613, Long-Term Care Consumers Guide, shall be used to conduct annual customer satisfaction surveys and to pay for other administrative expenses related to the publication of the Ohio Long-Term Care Consumer Guide.

During fiscal year 2012 and fiscal year 2013, the Department of Aging shall identify methods and tools for assessing consumer satisfaction with adult care facilities and with the providers of home and community-based services. The Department shall also consider the development of a provider fee structure to support the inclusion of information about adult care facilities and providers of home and community-based services among the types of providers reviewed in the Ohio Long-Term Care Consumer Guide.

Sec. 211.10. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF	700401	Animal Disease Control	$ 3,936,687	$ 3,936,687
GRF	700403	Dairy Division	$ 1,088,115	$ 1,088,115
GRF	700404	Ohio Proud	$ 50,000	$ 50,000

GRF	700406	Consumer Analytical Lab	$ 1,287,556	$ 1,287,556	76951
GRF	700407	Food Safety	$ 848,792	$ 848,792	76952
GRF	700409	Farmland Preservation	$ 72,750	$ 72,750	76953
GRF	700412	Weights and Measures	$ 600,000	$ 600,000	76954
GRF	700415	Poultry Inspection	$ 392,978	$ 392,978	76955
GRF	700418	Livestock Regulation Program	$ 1,108,071	$ 1,108,071	76956
GRF	700424	Livestock Testing and Inspections	$ 102,770	$ 102,770	76957
GRF	700499	Meat Inspection Program - State Share	$ 4,175,097	$ 4,175,097	76958
GRF	700501	County Agricultural Societies	$ 391,413	$ 391,413	76959
TOTAL GRF General Revenue Fund			$ 14,054,229	$ 14,054,229	76960
General Services Fund Group					76961
5DA0	700644	Laboratory Administration Support	$ 1,094,867	$ 1,094,867	76962
5GH0	700655	Central Support Indirect Cost	$ 4,456,842	$ 4,456,842	76963
TOTAL GSF General Services Fund Group			$ 5,551,709	$ 5,551,709	76964
Federal Special Revenue Fund Group					76965
3260	700618	Meat Inspection Program - Federal Share	$ 4,950,000	$ 4,950,000	76966
3360	700617	Ohio Farm Loan Revolving Fund	$ 150,000	$ 150,000	76967
3820	700601	Cooperative Contracts	$ 2,000,000	$ 2,000,000	76968
3AB0	700641	Agricultural Easement	$ 1,000,000	$ 1,000,000	76969
3J40	700607	Indirect Cost	$ 600,000	$ 600,000	76970

3R20	700614	Federal Plant Industry	$ 1,000,000	$ 1,000,000	76971
TOTAL FED Federal Special Revenue Fund Group			$ 9,700,000	$ 9,700,000	76972 76973
State Special Revenue Fund Group					76974
4960	700626	Ohio Grape Industries	$ 846,611	$ 846,611	76975
4970	700627	Commodity Handlers Regulatory Program	$ 483,402	$ 483,402	76976
4C90	700605	Commercial Feed and Seed	$ 1,816,897	$ 1,816,897	76977
4D20	700609	Auction Education	$ 41,000	$ 41,000	76978
4E40	700606	Utility Radiological Safety	$ 131,785	$ 131,785	76979
4P70	700610	Food Safety Inspection	$ 1,085,836	$ 1,085,836	76980
4R00	700636	Ohio Proud Marketing	$ 30,500	$ 30,500	76981
4R20	700637	Dairy Industry Inspection	$ 1,758,247	$ 1,758,247	76982
4T60	700611	Poultry and Meat Inspection	$ 180,000	$ 180,000	76983
4T70	700613	Ohio Proud International and Domestic Market Development	$ 50,000	$ 50,000	76984
5780	700620	Ride Inspection Fees	$ 1,175,142	$ 1,175,142	76985
5B80	700629	Auctioneers	$ 359,823	$ 359,823	76986
5FC0	700648	Plant Pest Program	$ ~~1,164,000~~ 3,164,000	$ 1,164,000	76987
5H20	700608	Metrology Lab and Scale Certification	$ 750,000	$ 750,000	76988
5HP0	700656	Livestock Care Standards Board	$ 80,000	$ 80,000	76989
5L80	700604	Livestock Management	$ 584,000	$ 584,000	76990

		Program			
6520	700634	Animal and Consumer Analytical Laboratory	$ 4,366,383	$ 4,366,383	76991
6690	700635	Pesticide, Fertilizer, and Lime Inspection Program	$ 3,418,041	$ 3,418,041	76992
TOTAL SSR State Special Revenue Fund Group			$ ~~18,321,667~~ 20,321,667	$ 18,321,667	76993 76994
Clean Ohio Conservation Fund Group					76995
7057	700632	Clean Ohio Agricultural Easement	$ 310,000	$ 310,000	76996
TOTAL CLF Clean Ohio Conservation Fund Group			$ 310,000	$ 310,000	76997
TOTAL ALL BUDGET FUND GROUPS			$ ~~47,937,605~~ 49,937,605	$ 47,937,605	76998

COUNTY AGRICULTURAL SOCIETIES 76999

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities. 77000 77001 77002 77003

ABOLISHMENT OF VARIOUS FUNDS 77004

Upon the effective date of this amendment, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balances in the following twelve funds to the Indirect Cost Fund (Fund 5GH0): (1) the Federal Grants Fund (Fund 3X60), (2) the Specialty Crops Support Fund (Fund 3X70), (3) the Fruits and Vegetables Fund (Fund 4930), (4) the Dairy Fund (Fund 4V00), (5) the Animal Industry Fund (Fund 4VS0), (6) the Scale Certification Fund (Fund 5790), (7) the Weights and Measures Permits Fund (Fund 58F0), (8) the Food Policy Council Fund (Fund 5FD0), (9) the Sustainable Agriculture Fund (Fund 5FE0), (10) the 77005 77006 77007 77008 77009 77010 77011 77012 77013 77014

Pilot Farmland Preservation Fund (Fund 5GS0), (11) the Farm Service Electronic Filing Fund (Fund SY70), and (12) the Seed Fund (Fund SZ40). Upon completion of the cash transfers, the funds from which the required cash transfers were made are abolished. The Director shall cancel any existing encumbrances against applicable line items within the abolished funds and reestablish them against Fund 5GH0 appropriation item 700655, Central Support Indirect Cost. The reestablished encumbrance amounts are hereby appropriated.

ASIAN LONGHORNED BEETLE

On the effective date of this act, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to $2,000,000 in cash from the General Revenue Fund to the Plant Pest Fund (Fund 5FC0).

Of the foregoing appropriation item 700648, Plant Pest Program, up to $2,000,000 in FY 2012 shall be used for reforestation and the eradication of the Asian Longhorned Beetle. Any portion of this transfer that remains unexpended and unencumbered in FY 2012 is hereby reappropriated for the same purpose in FY 2013.

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

Sec. 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

General Revenue Fund				
GRF	038401	Treatment Services	$ 11,225,590	$ 7,020,974

GRF	038404	Prevention Services	$ 868,659	$ 868,659	77045
GRF	038501	Medicaid Match	$ 23,959,113	$ 0	77046
TOTAL GRF General Revenue Fund			$ 36,053,362	$ 7,889,633	77047
General Services Fund					77048
5T90	038616	Problem Gambling Services	$ 335,000	$ 335,000	77049
TOTAL GSF General Services Fund Group			$ 335,000	$ 335,000	77050
Federal Special Revenue Fund Group					77051
3G40	038614	Substance Abuse Block Grant	$ 69,000,000	$ 69,000,000	77052
3H80	038609	Demonstration Grants	$ 8,675,580	$ 8,675,580	77053
3J80	038610	Medicaid	$ 69,200,000	$ 0	77054
3N80	038611	Administrative Reimbursement	$ 300,000	$ 300,000	77055
TOTAL FED Federal Special Revenue Fund Group			$ 147,175,580	$ 77,975,580	77056 77057
State Special Revenue Fund Group					77058
4750	038621	Statewide Treatment and Prevention	$ 16,000,000	$ ~~14,000,000~~ 15,000,000	77059
5JL0	038629	Problem Casino Gambling and Addictions Fund	$ 226,612	$ 5,446,364	77060
5JW0	038615	Board Match Reimbursement	$ 3,000,000	$ 3,000,000	77061
6890	038604	Education and Conferences	$ 75,000	$ 75,000	77062
TOTAL SSR State Special Revenue Fund Group			$ ~~19,075,000~~ 19,301,612	$ ~~17,075,000~~ 23,521,364	77063 77064
TOTAL ALL BUDGET FUND GROUPS			$ ~~202,638,942~~ 202,865,554	$ ~~103,275,213~~ 109,721,577	77065

Sec. 215.20. ALCOHOL AND DRUG ADDICTION MEDICAID MATCH

(A) As used in this section, "community alcohol and drug addiction Medicaid services" means services provided under the component, or aspect of the component, of the Medicaid program that the Department of Alcohol and Drug Addiction Services administers pursuant to a contract entered into with the Department of Job and Family Services under section 5111.91 of the Revised Code.

(B) Subject to division (C) of this section, the foregoing appropriation item 038501, Medicaid Match, shall be used by the Department of Alcohol and Drug Addiction Services to make payments for community alcohol and drug addiction Medicaid services.

(C) For state fiscal year 2012, the Department shall allocate foregoing appropriation item 038501, Medicaid Match, and a portion of appropriation item 038621, Statewide Treatment and Prevention, to boards of alcohol, drug addiction, and mental health services in accordance with a distribution methodology the Department shall establish. Notwithstanding sections 5111.911 and 5111.913 of the Revised Code, the boards shall use the funds allocated to them under this section to pay claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012. The boards shall use all federal financial participation that the Department receives for claims paid for community alcohol and drug addiction Medicaid services provided during fiscal year 2012 as the first payment source to pay claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012. The boards are not required to use any funds other than the funds allocated to them under this section and the federal financial participation received for claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012 to pay for such claims.

(D) The Department shall enter into an agreement with each board regarding the issue of paying claims that are for community alcohol and drug addiction Medicaid services provided before July 1, 2011, and submitted for payment on or after that date. Such claims shall be paid in accordance with the agreements. A board shall receive the federal financial participation received for claims for community alcohol and drug addiction Medicaid services that were provided before July 1, 2011, and paid by the board.

STATEWIDE TREATMENT AND PREVENTION

Of the foregoing appropriation item 038621, Statewide Treatment and Prevention, up to $1,000,000 in fiscal year 2013 shall be used to fund the pilot program for opioid- and alcohol-dependent offenders established under Section 737.70 of H.B. 487 of the 129th General Assembly.

Sec. 223.10. AGO ATTORNEY GENERAL

General Revenue Fund					
GRF	055321	Operating Expenses	$ 42,514,169	$ 42,514,169	
GRF	055405	Law-Related Education	$ 100,000	$ 100,000	
GRF	055411	County Sheriffs' Pay Supplement	$ 757,921	$ 757,921	
GRF	055415	County Prosecutors' Pay Supplement	$ 831,499	$ 831,499	
TOTAL GRF General Revenue Fund			$ 44,203,589	$ 44,203,589	
General Services Fund Group					
1060	055612	General Reimbursement	$ 43,357,968	$ 43,011,277	
1950	055660	Workers' Compensation Section	$ 8,415,504	$ 8,415,504	
4180	055615	Charitable Foundations	$ 7,286,000	$ 7,286,000	
4200	055603	Attorney General	$ 1,871,674	$ 1,839,074	

		Antitrust			
4210	055617	Police Officers' Training Academy Fee	$ 2,124,942	$ 2,088,805	77124
4Z20	055609	BCI Asset Forfeiture and Cost Reimbursement	$ 1,529,685	$ 1,521,731	77125
5900	055633	Peace Officer Private Security Fund	$ 98,370	$ 98,370	77126
5A90	055618	Telemarketing Fraud Enforcement	$ 7,500	$ 7,500	77127
5L50	055619	Law Enforcement Assistance Program	$ 300,222	$ 0	77128
5LR0	055655	Peace Officer Training - Casino	$ 192,620	$ 4,629,409	77129
6310	055637	Consumer Protection Enforcement	$ 3,799,115	$ 3,718,973	77130
TOTAL GSF General Services Fund					77131
Group			$ ~~68,790,980~~ 68,983,600	$ ~~67,987,234~~ 72,616,643	77132
Federal Special Revenue Fund Group					77133
3060	055620	Medicaid Fraud Control	$ 4,211,235	$ 4,122,399	77134
3810	055611	Civil Rights Legal Service	$ 402,540	$ 402,540	77135
3830	055634	Crime Victims Assistance	$ 13,000,000	$ 13,000,000	77136
3E50	055638	Attorney General Pass-Through Funds	$ 1,223,606	$ 1,222,172	77137
3R60	055613	Attorney General Federal Funds	$ 3,823,251	$ 3,673,251	77138
TOTAL FED Federal Special Revenue					77139
Fund Group			$ 22,660,632	$ 22,420,362	77140
State Special Revenue Fund Group					77141

4020	055616	Victims of Crime	$ 26,000,000	$ 26,000,000	77142
4170	055621	Domestic Violence Shelter	$ 25,000	$ 25,000	77143
4190	055623	Claims Section	$ 44,197,843	$ 41,953,025	77144
4L60	055606	DARE Programs	$ 4,477,962	$ 4,477,962	77145
4Y70	055608	Title Defect Recision	$ 600,000	$ 600,000	77146
6590	055641	Solid and Hazardous Waste Background Investigations	$ 662,227	$ 651,049	77147
TOTAL SSR State Special Revenue					77148
Fund Group			$ 75,963,032	$ 73,707,036	77149
Holding Account Redistribution Fund Group					77150
R004	055631	General Holding Account	$ 1,000,000	$ 1,000,000	77151
R005	055632	Antitrust Settlements	$ 1,000	$ 1,000	77152
R018	055630	Consumer Frauds	$ 750,000	$ 750,000	77153
R042	055601	Organized Crime Commission Distributions	$ 25,025	$ 25,025	77154
R054	055650	Collection Outside Counsel Payments	$ 4,500,000	$ 4,500,000	77155
TOTAL 090 Holding Account					77156
Redistribution Fund Group			$ 6,276,025	$ 6,276,025	77157
Tobacco Master Settlement Agreement Fund Group					77158
J087	055635	Law Enforcement Technology, Training, and Facility Enhancements	$ 2,300,000	$ 0	77159
U087	055402	Tobacco Settlement Oversight, Administration, and Enforcement	$ 2,527,992	$ 2,514,690	77160

TOTAL TSF Tobacco Master Settlement Agreement Fund Group	$ 4,827,992	$ 2,514,690	77161
TOTAL ALL BUDGET FUND GROUPS	$ ~~222,722,250~~ 222,914,870	$ ~~217,108,936~~ 221,738,345	77162

COUNTY SHERIFFS' PAY SUPPLEMENT 77163

The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code. 77164 77165 77166 77167

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code. 77168 77169 77170 77171 77172 77173

COUNTY PROSECUTORS' PAY SUPPLEMENT 77174

The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code. 77175 77176 77177 77178

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code. 77179 77180 77181 77182 77183 77184 77185

GENERAL REIMBURSEMENT FUND 77186

Notwithstanding any other provision of law to the contrary, on July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer $160,000 cash from the 77187 77188 77189

General Revenue Fund to the General Reimbursement Fund (Fund 1060) used by the Office of the Attorney General.

WORKERS' COMPENSATION SECTION

The Workers' Compensation Fund (Fund 1950) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

ATTORNEY GENERAL PASS-THROUGH FUNDS

The foregoing appropriation item 055638, Attorney General Pass-Through Funds, shall be used to receive federal grant funds provided to the Attorney General by other state agencies, including, but not limited to, the Department of Youth Services and the Department of Public Safety.

GENERAL HOLDING ACCOUNT

The foregoing appropriation item 055631, General Holding Account, shall be used to distribute moneys under the terms of relevant court orders or other settlements received in a variety of cases involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ANTITRUST SETTLEMENTS

The foregoing appropriation item 055632, Antitrust Settlements, shall be used to distribute moneys under the terms of relevant court orders or other out of court settlements in antitrust cases or antitrust matters involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

CONSUMER FRAUDS

The foregoing appropriation item 055630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the fraud that generated the court-ordered judgments. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ORGANIZED CRIME COMMISSION DISTRIBUTIONS

The foregoing appropriation item 055601, Organized Crime Commission Distributions, shall be used by the Organized Crime Investigations Commission, as provided by section 177.011 of the Revised Code, to reimburse political subdivisions for the expenses the political subdivisions incur when their law enforcement officers participate in an organized crime task force. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

COLLECTION OUTSIDE COUNSEL PAYMENTS

The foregoing appropriation item 055650, Collection Outside Counsel Payments, shall be used for the purpose of paying contingency counsel fees for cases where debtors mistakenly paid the client agencies instead of the Attorney General's Revenue Recovery/Collections Enforcement Section. If it is determined that

additional amounts are necessary for this purpose, the amounts are hereby appropriated.

Sec. 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT

General Revenue Fund				
GRF	042321	Budget Development and Implementation	$ 2,362,025	$ ~~2,378,166~~ 2,353,166
GRF	042409	Commission Closures	$ 50,000	$ 50,000
GRF	042416	Office of Health Transformation	$ 306,285	$ ~~0~~ 499,252
GRF	042423	Liquor Enterprise Transaction	$ 500,000	$ 0
TOTAL GRF General Revenue Fund			$ 3,218,310	$ ~~2,428,166~~ 2,902,418
General Services Fund Group				
1050	042603	State Accounting and Budgeting	$ ~~21,917,230~~ 21,158,069	$ ~~22,006,331~~ 22,262,185
5N40	042602	OAKS Project Implementation	$ 1,358,000	$ ~~1,309,500~~ 1,296,000
5Z80	042608	Office of Health Transformation Administration	$ 57,752	$ 0
TOTAL GSF General Services Fund Group			$ ~~23,332,982~~ 22,573,821	$ ~~23,315,831~~ 23,558,185
Federal Special Revenue Fund Group				
3CM0	042606	Office of Health Transformation - Federal	$ 384,037	$ ~~145,500~~ 438,723
TOTAL FED Federal Special Revenue Fund Group			$ 384,037	$ ~~145,500~~ 438,723
Agency Fund Group				

5EH0 042604 Forgery Recovery	$ 50,000	$ ~~50,000~~ 49,000	77269
TOTAL AGY Agency Fund Group	$ 50,000	$ ~~50,000~~ 49,000	77270
TOTAL ALL BUDGET FUND GROUPS	$ ~~26,985,329~~ 26,226,168	$ ~~25,939,497~~ 26,948,326	77271

COMMISSION CLOSURES 77272

The foregoing appropriation item 042409, Commission Closures, may be used to pay obligations associated with the closure of the Commission on Dispute Resolution and Conflict Management, the School Employees Health Care Board, the Legal Rights Service, and the Workers' Compensation Council. Notwithstanding any provision of law to the contrary, this appropriation item may also be used to pay final payroll expenses occurring after the closure of the Commission on Dispute Resolution and Conflict Management, the School Employees Health Care Board, the Legal Rights Service, and the Workers' Compensation Council in the event that appropriations or cash in the closing agency are insufficient to do so. 77273 77274 77275 77276 77277 77278 77279 77280 77281 77282 77283

The Director of Budget and Management may request Controlling Board approval for funds to be transferred to appropriation item 042409, Commission Closures, from appropriation item 911614, CB Emergency Purposes, for anticipated expenses associated with agency closures. 77284 77285 77286 77287 77288

LIQUOR ENTERPRISE TRANSACTION 77289

The foregoing appropriation item 042423, Liquor Enterprise Transaction, shall be used by the Director of Budget and Management, without need for any other approval, to retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the Director's judgment to commence negotiation of the transfer agreement referred to in sections 4313.01 and 4313.02 of the Revised Code, as enacted by ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly. Any amounts expended from appropriation item 042423 shall be reimbursed from the proceeds of the 77290 77291 77292 77293 77294 77295 77296 77297 77298 77299

enterprise acquisition project transaction authorized in those sections.

The Director of Budget and Management, in consultation with the Director of Commerce, may negotiate an initial agreement with JobsOhio, which shall be executed by the Directors of Budget and Management and Commerce upon its completion.

AUDIT COSTS AND DUES

All centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state shall be paid from the foregoing appropriation item 042603, State Accounting and Budgeting.

Costs associated with the audit of the Auditor of State and national association dues shall be paid from the foregoing appropriation item 042321, Budget Development and Implementation.

SHARED SERVICES CENTER

The Director of Budget and Management shall use the OAKS Project Implementation Fund (Fund 5N40) and the Accounting and Budgeting Fund (Fund 1050) to support a Shared Services Center within the Office of Budget and Management for the purpose of consolidating statewide business functions and common transactional processes.

The Director of Budget and Management shall include the recovery of costs to operate the Shared Services Center in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies for services rendered. The Director of Budget and Management shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of Fund 1050.

INTERNAL CONTROL AND AUDIT OVERSIGHT

The Director of Budget and Management shall include the recovery of costs to operate the Internal Control and Audit Oversight Program in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies reviewed by the program. The Director of Budget and Management, with advice from the Internal Audit Advisory Council, shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of the Accounting and Budgeting Fund (Fund 1050).

FORGERY RECOVERY

The foregoing appropriation item 042604, Forgery Recovery, shall be used to reissue warrants that have been certified as forgeries by the rightful recipient as determined by the Bureau of Criminal Identification and Investigation and the Treasurer of State. Upon receipt of funds to cover the reissuance of the warrant, the Director of Budget and Management shall reissue a state warrant of the same amount.

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer an amount not to exceed $1,100,000 in cash from the General Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40).

Sec. 243.10. COM DEPARTMENT OF COMMERCE

General Services Fund Group				
1630	800620	Division of Administration	$ 6,200,000	$ 6,200,000
1630	800637	Information Technology	$ 5,999,892	$ 6,011,977
5430	800602	Unclaimed Funds-Operating	$ 7,836,107	$ 7,841,473
5430	800625	Unclaimed Funds-Claims	$ 69,700,000	$ ~~69,800,000~~

				68,000,000	
5F10	800635	Small Government Fire Departments	$ 300,000	$ 300,000	77358
TOTAL GSF General Services Fund Group			$ 90,035,999	$ ~~90,153,450~~ 88,353,450	77359 77360
Federal Special Revenue Fund Group					77361
3480	800622	Underground Storage Tanks	$ 1,129,518	$ 1,129,518	77362
3480	800624	Leaking Underground Storage Tanks	$ 1,556,211	$ 1,556,211	77363
TOTAL FED Federal Special Revenue Fund Group			$ 2,685,729	$ 2,685,729	77364 77365
State Special Revenue Fund Group					77366
4B20	800631	Real Estate Appraisal Recovery	$ 35,000	$ 35,000	77367
4H90	800608	Cemeteries	$ 268,067	$ 268,293	77368
4X20	800619	Financial Institutions	$ 2,186,271	$ ~~1,990,693~~ 1,970,786	77369
5440	800612	Banks	$ 7,242,364	$ ~~6,942,336~~ 6,872,913	77370
5450	800613	Savings Institutions	$ 2,257,220	$ 2,259,536	77371
5460	800610	Fire Marshal	$ 15,400,000	$ ~~15,501,562~~ 15,484,574	77372
5460	800639	Fire Department Grants	$ 1,698,802	$ 1,698,802	77373
5470	800603	Real Estate Education/Research	$ 125,000	$ ~~125,000~~ 80,655	77374
5480	800611	Real Estate Recovery	$ 25,000	$ 25,000	77375
5490	800614	Real Estate	$ 3,413,708	$ 3,332,308	77376
5500	800617	Securities	$ 4,312,434	$ ~~4,314,613~~ 4,271,467	77377
5520	800604	Credit Union	$ 3,450,390	$ ~~3,450,390~~	77378

					3,415,886	
5530	800607	Consumer Finance	$	3,613,016	$ ~~3,516,861~~	77379
					3,481,692	
5560	800615	Industrial Compliance	$	27,639,372	$ ~~27,664,695~~	77380
					27,388,048	
5FW0	800616	Financial Literacy Education	$	240,000	$ ~~240,000~~ 200,000	77381
5GK0	800609	Securities Investor Education/Enforcement	$	1,135,000	$ ~~485,000~~ 480,150	77382
5HV0	800641	Cigarette Enforcement	$	120,000	$ ~~120,000~~ 118,800	77383
5LN0	800645	Liquor Operating Services	$	0	$ 5,500,000	77384
5LP0	800646	Liquor Regulatory Operating Expense	$	0	$ 8,500,000	77385
5X60	800623	Video Service	$	340,299	$ ~~340,630~~ 337,224	77386
6530	800629	UST Registration/Permit Fee	$	1,854,675	$ ~~1,509,653~~ 1,494,556	77387
6A40	800630	Real Estate Appraiser-Operating	$	699,565	$ 648,890	77388
TOTAL SSR State Special Revenue						77389
Fund Group			$	76,056,183	$ ~~74,469,262~~ 87,864,580	77390
Liquor Control Fund Group						77391
7043	800601	Merchandising	$	472,209,274	$ 0	77392
7043	800627	Liquor Control Operating	$	13,398,274	$ ~~10,110,479~~ 1,509,374	77393
7043	800633	Development Assistance Debt Service	$	51,973,200	$ 0	77394
7043	800636	Revitalization Debt Service	$	21,129,800	$ 0	77395
TOTAL LCF Liquor Control						77396

Fund Group	$ 558,710,548	$ ~~10,110,479~~ 1,509,374	77397
TOTAL ALL BUDGET FUND GROUPS	$ 727,488,459	$ ~~177,418,920~~ 180,413,133	77398

SMALL GOVERNMENT FIRE DEPARTMENTS 77399

Notwithstanding section 3737.17 of the Revised Code, the foregoing appropriation item 800635, Small Government Fire Departments, may be used to provide loans to private fire departments. 77400 77401 77402 77403

UNCLAIMED FUNDS PAYMENTS 77404

The foregoing appropriation item 800625, Unclaimed Funds-Claims, shall be used to pay claims under section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are appropriated. 77405 77406 77407 77408

UNCLAIMED FUNDS TRANSFERS 77409

Notwithstanding division (A) of section 169.05 of the Revised Code, during the FY 2012-FY 2013 biennium, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to $215,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. The Director of Commerce shall transfer the funds at the times requested by the Director of Budget and Management. 77410 77411 77412 77413 77414 77415 77416 77417 77418

FIRE DEPARTMENT GRANTS 77419

Of the foregoing appropriation item 800639, Fire Department Grants, up to $1,647,140 in each fiscal year shall be used to make annual grants to the following eligible recipients: volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or 77420 77421 77422 77423 77424 77425

small townships, local units of government responsible for such fire departments, and local units of government responsible for the provision of fire protection services for small municipalities or small townships. For the purposes of these grants, a private fire company, as that phrase is defined in section 9.60 of the Revised Code, that is providing fire protection services under a contract to a political subdivision of the state, is an additional eligible recipient for a training grant.

Eligible recipients that consist of small municipalities or small townships that all intend to contract with the same fire department or private fire company for fire protection services may jointly apply and be considered for a grant. If a joint applicant is awarded a grant, the State Fire Marshal shall, if feasible, proportionately award the grant and any equipment purchased with grant funds to each of the joint applicants based upon each applicant's contribution to and demonstrated need for fire protection services.

If the grant awarded to joint applicants is an equipment grant and the equipment to be purchased cannot be readily distributed or possessed by multiple recipients, each of the joint applicants shall be awarded by the State Fire Marshal an ownership interest in the equipment so purchased in proportion to each applicant's contribution to and demonstrated need for fire protection services. The joint applicants shall then mutually agree on how the equipment is to be maintained, operated, stored, or disposed of. If, for any reason, the joint applicants cannot agree as to how jointly owned equipment is to be maintained, operated, stored, or disposed of or any of the joint applicants no longer maintain a contract with the same fire protection service provider as the other applicants, then the joint applicants shall, with the assistance of the State Fire Marshal, mutually agree as to how the jointly owned equipment is to be maintained, operated,

stored, disposed of, or owned. If the joint applicants cannot agree how the grant equipment is to be maintained, operated, stored, disposed of, or owned, the State Fire Marshal may, in its discretion, require all of the equipment acquired by the joint applicants with grant funds to be returned to the State Fire Marshal. The State Fire Marshal may then award the returned equipment to any eligible recipients.

The grants shall be used by recipients to purchase firefighting or rescue equipment or gear or similar items, to provide full or partial reimbursement for the documented costs of firefighter training, or, at the discretion of the State Fire Marshal, to cover fire department costs for providing fire protection services in that grant recipient's jurisdiction.

Grant awards for firefighting or rescue equipment or gear or for fire department costs of providing fire protection services shall be up to $15,000 per fiscal year, or up to $25,000 per fiscal year if an eligible entity serves a jurisdiction in which the Governor declared a natural disaster during the preceding or current fiscal year in which the grant was awarded. In addition to any grant funds awarded for rescue equipment or gear, or for fire department costs associated with the provision of fire protection services, an eligible entity may receive a grant for up to $15,000 per fiscal year for full or partial reimbursement of the documented costs of firefighter training. For each fiscal year, the State Fire Marshal shall determine the total amounts to be allocated for each eligible purpose.

The grant program shall be administered by the State Fire Marshal in accordance with rules the State Fire Marshal adopts as part of the state fire code adopted pursuant to section 3737.82 of the Revised Code that are necessary for the administration and operation of the grant program. The rules may further define the entities eligible to receive grants and establish criteria for the

awarding and expenditure of grant funds, including methods the State Fire Marshal may use to verify the proper use of grant funds or to obtain reimbursement for or the return of equipment for improperly used grant funds. Any amounts in appropriation item 800639, Fire Department Grants, in excess of the amount allocated for these grants may be used for the administration of the grant program.

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR EDUCATION AND ENFORCEMENT EXPENSE FUND

The Director of Budget and Management, upon the request of the Director of Commerce, shall transfer up to $485,000 in cash in each fiscal year from the Division of Securities Fund (Fund 5500) to the Division of Securities Investor Education and Enforcement Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised Code.

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND

The Director of Budget and Management, upon the request of the Director of Commerce, shall transfer up to $340,000 in cash in each fiscal year from the Division of Administration Fund (Fund 1630) to the Video Service Authorization Fund (Fund 5X60).

INCREASED APPROPRIATION - MERCHANDISING

The foregoing appropriation item 800601, Merchandising, shall be used under section 4301.12 of the Revised Code. If it is determined that additional expenditures are necessary, the amounts are hereby appropriated.

DEVELOPMENT ASSISTANCE DEBT SERVICE

The foregoing appropriation item 800633, Development Assistance Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made during the period from July 1, 2011, to June 30, 2012, for bond

service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. An appropriation for this purpose is not required, but is made in this form and in ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800636, Revitalization Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2011, to June 30, 2012. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

LIQUOR CONTROL FUND TRANSFER

On January 1, 2012, or as soon as possible thereafter, the Director of Budget and Management may transfer up to $10,600,000 in cash from the General Revenue Fund to the Liquor Control Fund (Fund 7043) for the liquor permitting and compliance functions of the Division of Liquor Control in the Department of Commerce and for the operations of the Liquor Control Commission and the Department of Public Safety pursuant to Chapter 4301. of the Revised Code.

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management may transfer up to $21,800,000 in cash from the General Revenue Fund to the Liquor Control Fund (Fund 7043) for the liquor permitting and compliance functions of

the Division of Liquor Control in the Department of Commerce and for the operations of the Liquor Control Commission and the Department of Public Safety pursuant to Chapter 4301. of the Revised Code.

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer $500,000 in cash from the Liquor Control Fund (Fund 7043) to the State Liquor Regulatory Fund (Fund 5LP0) created in section 4301.30 of the Revised Code.

ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, the Division of Administration Fund (Fund 1630) is entitled to receive assessments from all operating funds of the Department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

Sec. 261.10.40. TRAVEL AND TOURISM

The foregoing appropriation item 195407, Travel and Tourism, shall be used for marketing the state of Ohio as a tourism destination and to support administrative expenses and contracts necessary to market Ohio.

~~STRATEGIC~~ BUSINESS ~~INVESTMENT DIVISION AND REGIONAL OFFICES~~ DEVELOPMENT SERVICES

The foregoing appropriation item 195415, ~~Strategic~~ Business ~~Investment Division and Regional Offices~~ Development Services, shall be used for the operating expenses of the ~~Strategic~~ Business ~~Investment~~ Services Division and the regional economic development offices and for grants for cooperative economic development ventures.

Sec. 261.10.70. CLEAN OHIO IMPLEMENTATION

The foregoing appropriation item 195426, Clean Ohio Implementation, shall be used to fund the costs of administering the Clean Ohio Revitalization program and other urban revitalization programs that may be implemented by the ~~Department of~~ Development Services Agency.

CDBG OPERATING MATCH

The foregoing appropriation item 195497, CDBG Operating Match, shall be used as matching funds for grants from the United States Department of Housing and Urban Development pursuant to the Housing and Community Development Act of 1974 and regulations and policy guidelines for the programs pursuant thereto.

TECHNOLOGY PROGRAMS AND GRANTS

The foregoing appropriation item 195532, Technology Programs and Grants, shall be used for the same purposes as funding previously appropriated for appropriation items 195401, Thomas Edison Program, and 195422, Technology Action. Of the foregoing appropriation item 195532, Technology Programs and Grants, up to $547,341 in fiscal year 2013 shall be used for operating expenses incurred in administering the Ohio Third Frontier pursuant to sections 184.10 to 184.20 of the Revised Code; and up to $13,000,000 in fiscal year 2013 shall be used for the Thomas Edison Program pursuant to sections 122.28 to 122.38 of the Revised Code, of which not more than ten per cent shall be used for operating expenses incurred in administering the program.

BUSINESS ASSISTANCE

The foregoing appropriation item 195533, Business Assistance, shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 as amended by Public Law No. 98-395, and regulations and policy guidelines for the programs pursuant thereto. This appropriation item also may be used to provide

grants to local organizations to support economic development activities that promote minority business development, small business development, entrepreneurship, and exports of Ohio's goods and services.

APPALACHIA ASSISTANCE

The foregoing appropriation item 195535, Appalachia Assistance, may be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia, to provide financial assistance to projects in Ohio's Appalachian counties, to pay dues for the Appalachian Regional Commission, and to match federal funds from the Appalachian Regional Commission.

Of the foregoing appropriation item 195535, Appalachia Assistance, up to $440,000 in fiscal year 2013 shall be used to support four local development districts. Of that amount, up to $135,000 shall be allocated to the Ohio Valley Regional Development Commission, up to $135,000 shall be allocated to the Ohio Mid-Eastern Government Association, up to $135,000 shall be allocated to the Buckeye Hills-Hocking Valley Regional Development District, and up to $35,000 shall be allocated to the Eastgate Regional Council of Governments. Local development districts receiving funding under this section shall use the funds for the implementation and administration of programs and duties under section 107.21 of the Revised Code.

Sec. 261.20.40. ~~SUPPORTIVE~~ DEVELOPMENT SERVICES OPERATIONS

The Director of Development Services may assess ~~divisions~~ offices of the ~~department~~ agency for the cost of central service operations. An assessment shall contain the characteristics of administrative ease and uniform application. A division's payments shall be credited to the Supportive Services Fund (Fund 1350) using an intrastate transfer voucher.

~~ECONOMIC DEVELOPMENT CONTINGENCY~~

~~The foregoing appropriation item 195677, Economic Development Contingency, may be used to award funds directly to either (1) business entities considering Ohio for expansion or new site location opportunities or (2) political subdivisions to assist with necessary costs involved in attracting a business entity. In addition, the Director of Development may award funds for alternative purposes when appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director.~~

LEGACY PROJECTS

The foregoing appropriation item 195633, Legacy Projects, shall be used to support existing grant commitments to companies incurred prior to fiscal year 2013. A portion of the appropriation item may also be used to support administrative expenses and other costs associated with these projects.

~~DIRECT COST RECOVERY~~ DEVELOPMENT SERVICES REIMBURSABLE EXPENDITURES

The foregoing appropriation item 195636, ~~Direct Cost Recovery~~ Development Services Reimbursable Expenditures, shall be used for reimbursable costs incurred by the agency. Revenues to the General Reimbursement Fund (Fund 6850) shall consist of moneys charged for administrative costs that are not central service costs.

Sec. 261.20.50. WORKFORCE DEVELOPMENT INITIATIVES

Any unexpended and unencumbered portion of the foregoing appropriation item 195643, Workforce Development Initiatives, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

HEAP WEATHERIZATION

Up to fifteen per cent of the federal funds deposited to the

credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) may be expended from appropriation item 195614, HEAP Weatherization, to provide home weatherization services in the state as determined by the Director of Development Services. Any transfers or increases in appropriation for the foregoing appropriation items 195614, HEAP Weatherization, or 195611, Home Energy Assistance Block Grant, shall be subject to approval by the Controlling Board.

Sec. 261.20.60. BUSINESS ASSISTANCE PROGRAMS

The foregoing appropriation item 195649, Business Assistance Programs, shall be used for administrative expenses associated with the operation of tax credit programs, loan servicing, the Ohio Film Office, and the Office of Strategic Business Investments, and for payments to the JobsOhio corporation established in Chapter 187. of the Revised Code for services provided for the administration of the 166 Direct Loan Program, Ohio Enterprise Bond Fund, Research and Development Loan Program, and Innovation Ohio Loan Program.

STATE SPECIAL PROJECTS

The State Special Projects Fund (Fund 4F20), may be used for the deposit of private-sector funds from utility companies and for the deposit of other miscellaneous state funds. State moneys so deposited ~~shall~~ may also be used to match federal housing grants for the homeless ~~and to market economic development opportunities in the state~~. Private-sector moneys shall be deposited for use in appropriation item 195699, Utility ~~Provided Funds~~ Community Assistance, and shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) leverage additional federal funds, (3) fund special projects to assist ~~homeless individuals~~ income-eligible veterans and families with services and energy assistance programs, (4) fund special projects to

assist with the energy efficiency of households eligible to participate in the Percentage of Income Payment Plan, and (5) assist with training programs for agencies that administer low-income customer assistance programs.

Sec. 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board Loan Program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W10). Operating costs of administering the Minority Business Enterprise Loan Fund may be paid from the Minority Business Enterprise Loan Fund (Fund 4W10).

MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development Services may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to $10,000,000 in the fiscal year 2012-fiscal year 2013 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the ~~Department of Commerce's~~ Unclaimed Funds Fund (Fund 5430) used by the Department of Commerce to the ~~Department of Development's~~ Minority Business Bonding Fund (Fund 4490) used by the Development Services Agency shall occur, if requested by the Director of Development Services, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of $2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in

custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

Sec. 261.20.90. ~~OHIO~~ INCUMBENT WORKFORCE TRAINING VOUCHERS

(A) On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to $20,000,000 cash from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ Development Services Agency.

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to $30,000,000 cash from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ Development Services Agency.

(B) Of the foregoing appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training Vouchers, up to $20,000,000 in fiscal year 2012 and up to $30,000,000 in fiscal year 2013 shall be used to support the Ohio Incumbent Workforce Training Voucher Program. The Director of Development Services and the Chief Investment Officer of JobsOhio may enter into an agreement to operate the program pursuant to the contract between the ~~Department of~~ Development Services Agency and JobsOhio under section 187.04 of the Revised Code. The agreement may include a provision for granting, loaning, or transferring funds from appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training Vouchers, to JobsOhio to provide training for incumbent workers.

Any unexpended and unencumbered portion of the foregoing appropriation item 195526, Incumbent Workforce Training Vouchers, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

(C) Regardless of any agreement between the Director and the Chief Investment Officer under division (B) of this section, the Ohio Incumbent Workforce Training Voucher Program shall conform to guidelines for the operation of the program, including, but not limited to, the following:

(1) A requirement that a training voucher under the program shall not exceed $6,000 per worker per year;

(2) A provision for an employer of an eligible employee to apply for a voucher on behalf of the eligible employee;

(3) A provision for an eligible employee to apply directly for a training voucher with the pre-approval of the employee's employer; and

(4) A requirement that an employee participating in the program, or the employee's employer, shall pay for not less than thirty-three per cent of the training costs under the program.

DEFENSE DEVELOPMENT ASSISTANCE

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer $5,000,000 in cash from the Economic Development Projects Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ Development Services Agency. The transferred funds are hereby appropriated in appropriation item 195622, Defense Development Assistance.

The foregoing appropriation item 195622, Defense Development Assistance, shall be used for economic development programs and

the creation of new jobs to leverage and support mission gains at Department of Defense facilities in Ohio by working with future base realignment and closure activities and ongoing Department of Defense efficiency initiatives, assisting efforts to secure Department of Defense support contracts for Ohio companies, assessing and supporting regional job training and workforce development needs generated by the Department of Defense and the Ohio aerospace industry, and for expanding job training and economic development programs in human performance related initiatives. These funds shall be matched by private industry partners or the Department of Defense in an aggregate amount of $6,000,000 over the FY 2012-FY 2013 biennium.

Any unexpended and unencumbered portion of the foregoing appropriation item 195622, Defense Development Assistance, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

WORKFORCE DEVELOPMENT PROGRAMS

The foregoing appropriation item 195655, Workforce Development Programs, may be used for the Ohio Workforce Guarantee Program to promote training through grants to businesses and, in the case of a business consortium, to the consortium for training and education providers for the reimbursement of eligible training expenses. Not more than ten per cent of appropriation item 195655, Workforce Development Programs, shall be used for administrative expenses related to the Ohio Workforce Guarantee Program.

Sec. 261.30.10. ADVANCED ENERGY ~~FUND~~ LOAN PROGRAMS

The foregoing appropriation item 195660, Advanced Energy Loan Programs, shall be used to provide financial assistance to customers for eligible advanced energy projects for residential, commercial, and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for

the program's administrative costs as provided in sections 4928.61 to 4928.63 of the Revised Code and rules adopted by the Director of Development Services.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer $750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the Alternative Fuel Transportation Grant Fund (Fund 5CG0).

VOLUME CAP ADMINISTRATION

The foregoing appropriation item 195654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 6170) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

Sec. 261.30.20. INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195664, Innovation Ohio, shall be used to provide for innovation Ohio purposes, including loan guarantees and loans under Chapter 166. and particularly sections 166.12 to 166.16 of the Revised Code.

RESEARCH AND DEVELOPMENT

The foregoing appropriation item 195665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE

Appropriation item 195698, Logistics and Distribution Infrastructure, shall be used for eligible logistics and distribution infrastructure projects as defined in section 166.01 of the Revised Code. Any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2011 is hereby

reappropriated for the same purpose in fiscal year 2012, and any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

After all encumbrances have been paid, the Director of Budget and Management shall transfer the remaining cash balance in the Logistics and Distribution Infrastructure Fund (Fund 7008) to the Facilities Establishment Fund (Fund 7037).

FACILITIES ESTABLISHMENT ~~FUND~~

The foregoing appropriation item 195615, Facilities Establishment (Fund 7037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed $1,000,000 in cash in fiscal year 2012 may be transferred from the Facilities Establishment Fund (Fund 7037) to the ~~Economic Development Financing Operating~~ Business Assistance Fund (Fund 4510). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed $2,500,000 in cash in each fiscal year from the Facilities Establishment Fund (Fund 7037) to the Minority Business Enterprise Loan Fund (Fund 4W10).

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Urban Development Loans Fund (Fund 5D20) to the Facilities Establishment Fund (Fund 7037).

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Rural Industrial Park Loan

Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037).

CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed-asset financing.

Sec. 261.30.30. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 195663, Clean Ohio ~~Operating~~ Program, shall be used by the ~~Department of~~ Development Services Agency in administering Clean Ohio Revitalization Fund (Fund 7003) projects pursuant to sections 122.65 to 122.658 of the Revised Code.

Sec. 261.30.40. THIRD FRONTIER OPERATING

The foregoing appropriation items 195686, Third Frontier Operating, and 195620, Third Frontier Operating - Tax, shall be used for operating expenses incurred by the ~~Department of~~ Development Services Agency in administering projects pursuant to sections 184.10 to 184.20 of the Revised Code. Operating expenses paid from item 195686 shall be limited to the administration of projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014).

Sec. 261.30.60. JOB READY SITE ~~OPERATING~~ PROGRAM

The foregoing appropriation item 195688, Job Ready Site ~~Operating~~ Program, shall be used for operating expenses incurred

by the ~~Department of~~ Development Services Agency in administering Job Ready Site Development Fund (Fund 7012) projects pursuant to sections 122.085 to 122.0820 of the Revised Code. Operating expenses include, but are not limited to, certain qualified expenses of the District Public Works Integrating Committees, as applicable, engineering review of submitted applications by the State Architect or a third-party engineering firm, audit and accountability activities, and costs associated with formal certifications verifying that site infrastructure is in place and is functional.

Sec. 261.30.70. OHIO COAL DEVELOPMENT OFFICE

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer any unexpended and unencumbered portion of appropriation item 898604, Coal Research and Development Fund, used by the Ohio Air Quality Development Authority, to a new capital appropriation item in the ~~Department of~~ Development Services Agency, to be determined by the Director. The Director also shall cancel all outstanding encumbrances against appropriation item 898604, Coal Research and Development Fund, and reestablish them against the foregoing new capital appropriation item. The amounts of the transfer and the reestablished encumbrances, plus $2,283,264, are hereby appropriated for fiscal year 2012 in the foregoing new appropriation item and shall be used to provide funding for coal research and development purposes.

Sec. 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND COMMERCIALIZATION SUPPORT

The General Assembly and the Governor recognize the role that the biomedical industry has in job creation, innovation, and economic development throughout Ohio. It is the intent of the

General Assembly, the Governor, the Director of Development Services, and the Director of Budget and Management to work together in continuing to provide comprehensive state support for the biomedical industry.

Sec. 261.30.90. UNCLAIMED FUNDS TRANSFER

(A)(1) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed $25,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2013, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed ~~$15,000,000~~ 18,600,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

~~(B)~~(2) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the State Special Projects Fund (Fund 4F20) an amount not to exceed $5,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

(B) ASSORTED TRANSFERS FOR RESTRUCTURING

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Water and Sewer Fund (Fund 4440) to the General Reimbursement Fund (Fund 6850).

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Water and Sewer Administration Fund (Fund 6110) to the General Reimbursement Fund (Fund 6850).

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Tax Incentive Programs Operating Fund (Fund 4S00) to the Business Assistance Fund (Fund 4510).

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Brownfield Stormwater Loan Fund (Fund 5KD0) to the New Market Tax Credit Program Fund (Fund 5JR0).

Sec. 261.40.10. WORKFORCE DEVELOPMENT

The Director of Development Services and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic development strategy, to implement the recommendations of the Workforce Policy Board, and to complete activities related to the transition of the administration of employment programs identified by the board. Subject to the approval of the Director of Budget and Management, the ~~Department of~~ Development Services Agency and the Department of Job and Family Services may expend moneys to support the recommendations of the Workforce Policy Board in the area of integration of employment functions as described in this paragraph and to complete implementation and transition activities from the

appropriations to those departments.

Sec. 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES

General Revenue Fund				
GRF	320321	Central Administration	$ 4,422,794	$ 4,422,794
GRF	320412	Protective Services	$ 2,174,826	$ 1,957,343
GRF	320415	Lease-Rental Payments	$ 18,394,250	$ ~~19,907,900~~ 17,907,900
GRF	322407	Medicaid State Match	$ 218,034,162	$ 214,902,506
GRF	322420	Screening and Early Intervention	$ 0	$ 300,000
GRF	322451	Family Support Services	$ 5,932,758	$ 5,932,758
GRF	322501	County Boards Subsidies	$ 40,906,365	$ 44,449,280
GRF	322503	Tax Equity	$ 14,000,000	$ 14,000,000
TOTAL GRF General Revenue Fund			$ 303,865,155	$ ~~305,572,581~~ 303,872,581
General Services Fund Group				
1520	323609	Developmental Center and Residential Operating Services	$ 3,414,317	$ 3,414,317
TOTAL GSF General Services Fund Group			$ 3,414,317	$ 3,414,317
Federal Special Revenue Fund Group				
3A50	320613	DD Council	$ 3,341,572	$ 3,341,572
3250	322612	Community Social Service Programs	$ 11,017,754	$ 10,604,896
3DZ0	322648	Enhanced Medicaid - Federal	$ 10,000,000	$ 0
3G60	322639	Medicaid Waiver -	$ 866,566,007	$ 985,566,007

		Federal			
3M70	322650	CAFS Medicaid	$ 29,349,502	$ ~~29,349,502~~ 3,000,000	78026
3A40	323605	Developmental Center and Residential Facility Services and Support	$ 180,266,029	$ ~~179,384,881~~ 174,000,000	78027
TOTAL FED Federal Special Revenue Fund Group			$ 1,100,540,864	$ ~~1,208,246,858~~ 1,176,512,475	78028
State Special Revenue Fund Group					78029
5GE0	320606	Operating and Services	$ 7,406,609	$ 7,407,297	78030
2210	322620	Supplement Service Trust	$ 150,000	$ 150,000	78031
4K80	322604	Medicaid Waiver - State Match	$ 12,000,000	$ 12,000,000	78032
5CT0	322632	Intensive Behavioral Needs	$ 1,000,000	$ 1,000,000	78033
5DJ0	322625	Targeted Case Management Match	$ 21,000,000	$ 24,000,000	78034
5DJ0	322626	Targeted Case Management Services	$ 57,307,357	$ 66,000,000	78035
5DK0	322629	Capital Replacement Facilities	$ 750,000	$ 750,000	78036
5EV0	322627	Program Fees	$ 685,000	$ 685,000	78037
5H00	322619	Medicaid Repayment	$ 160,000	$ 160,000	78038
5JX0	322651	Interagency Workgroup - Autism	$ 45,000	45,000	78039
5Z10	322624	County Board Waiver Match	$ 235,000,000	$ 290,000,000	78040
4890	323632	Developmental Center Direct Care Support	$ 16,497,170	$ 16,497,169	78041
5S20	590622	Medicaid	$ 20,875,567	$ 21,727,540	78042

Administration & Oversight			
TOTAL SSR State Special Revenue Fund Group	$ 372,876,703	$ 440,422,006	78043
TOTAL ALL BUDGET FUND GROUPS	$ 1,780,697,039	$ ~~1,957,655,762~~ 1,924,221,379	78044

Sec. 263.10.30. ~~FAMILY~~ SCREENING AND EARLY INTERVENTION 78046

The foregoing appropriation item 322420, Screening and Early Intervention, shall be used for screening and early intervention programs for children with autism selected by the Director. 78047 78048 78049

FAMILY SUPPORT SERVICES SUBSIDY 78050

(A) The foregoing appropriation item 322451, Family Support Services, may be used as follows in fiscal year 2012 and fiscal year 2013: 78051 78052 78053

(1) The appropriation item may be used to provide a subsidy to county boards of developmental disabilities for family support services provided under section 5126.11 of the Revised Code. The subsidy shall be paid in quarterly installments and allocated to county boards according to a formula the Director of Developmental Disabilities shall develop in consultation with representatives of county boards. A county board shall use not more than seven per cent of its subsidy for administrative costs. 78054 78055 78056 78057 78058 78059 78060 78061

(2) The appropriation item may be used to distribute funds to county boards for the purpose of addressing economic hardships and to promote efficiency of operations. In consultation with representatives of county boards, the Director shall determine the amount of funds to distribute for these purposes and the criteria for distributing the funds. 78062 78063 78064 78065 78066 78067

(B) Each county board shall submit reports to the Department of Developmental Disabilities on the use of funds received under 78068 78069

this section. The reports shall be submitted at the times and in the manner specified in rules the Director shall adopt in accordance with Chapter 119. of the Revised Code.

Sec. 263.10.90. TARGETED CASE MANAGEMENT SERVICES

County boards of developmental disabilities shall pay the nonfederal portion of targeted case management costs to the Department of Developmental Disabilities.

The Directors of Developmental Disabilities and Job and Family Services may enter into an interagency agreement under which the Department of Developmental Disabilities shall transfer cash from the Targeted Case Management Fund (Fund 5DJ0) to the ~~Medicaid Program Support - State~~ Health Care/Medicaid Support and Recoveries Fund (Fund ~~5C90~~ 5DL0) used by the Department of Job and Family Services in an amount equal to the nonfederal portion of the cost of targeted case management services paid by county boards, and the Department of Job and Family Services shall pay the total cost of targeted case management claims. The transfer shall be made using an intrastate transfer voucher.

Sec. 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Director of Developmental Disabilities shall quarterly transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the ~~Medicaid Program Support - State~~ Health Care/Medicaid Support and Recoveries Fund (Fund ~~5C90~~ 5DL0) used by the Department of Job and Family Services, in an amount equal to the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services. The quarterly transfer shall be made using an intrastate transfer voucher.

Sec. 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING FORMER RESIDENTS OF DEVELOPMENTAL CENTERS OR RESIDENTS OF CONVERTED FACILITIES

~~Subject~~ (A) As used in this section, "converted facility" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code, or former intermediate care facility for the mentally retarded, that converted some or all of its beds to providing home and community-based services under the Individual Options Waiver pursuant to section 5111.874 of the Revised Code.

(B) Subject to approval by the Centers for Medicare and Medicaid Services, the Department of Job and Family Services shall increase the rate paid to a provider under the Individual Options Waiver by fifty-two cents for each fifteen minutes of routine homemaker/personal care provided to an individual for up to a year if all of the following apply:

~~(A)~~(1) The individual was a resident of a developmental center or converted facility immediately prior to enrollment in the waiver;

~~(B)~~(2) The provider begins serving the individual on or after July 1, 2011;

~~(C)~~(3) The Director of Developmental Disabilities determines that the increased rate is warranted by the individual's special circumstances, including the individual's diagnosis, service needs, or length of stay at the developmental center or converted facility, and that serving the individual through the Individual Options Waiver is fiscally prudent for the Medicaid program.

Sec. 267.10. EDU DEPARTMENT OF EDUCATION

General Revenue Fund

GRF	200100	Personal Services	$	8,579,178	$	~~8,579,178~~ 0	78128
GRF	200320	Maintenance and Equipment	$	2,830,407	$	~~2,830,407~~ 0	78129
GRF	200321	Operating Expenses	$	0	$	13,142,780	78130
GRF	200408	Early Childhood Education	$	23,268,341	$	23,268,341	78131
GRF	200416	Career-Technical Education Match	$	2,233,195	$	~~2,233,195~~ 0	78132
GRF	200420	~~Computer/Application/ Network~~ Information Technology Development and Support	$	4,241,296	$	4,241,296	78133
GRF	200421	Alternative Education Programs	$	7,403,998	$	7,403,998	78134
GRF	200422	School Management Assistance	$	2,842,812	$	3,000,000	78135
GRF	200424	Policy Analysis	$	328,558	$	328,558	78136
GRF	200425	Tech Prep Consortia Support	$	260,542	$	260,542	78137
GRF	200426	Ohio Educational Computer Network	$	17,974,489	$	17,974,489	78138
GRF	200427	Academic Standards	$	4,346,060	$	3,700,000	78139
GRF	200437	Student Assessment	$	55,002,167	$	55,002,167	78140
GRF	200439	Accountability/Report Cards	$	3,579,279	$	3,579,279	78141
GRF	200442	Child Care Licensing	$	827,140	$	827,140	78142
GRF	200446	Education Management Information System	$	6,833,070	$	6,833,070	78143
GRF	200447	GED Testing	$	879,551	$	879,551	78144
GRF	200448	Educator Preparation	$	786,737	$	786,737	78145
GRF	200455	Community Schools and Choice Programs	$	2,200,000	$	2,200,000	78146
GRF	200502	Pupil Transportation	$	438,248,936	$	442,113,527	78147

GRF	200505	School Lunch Match	$ 9,100,000	$ 9,100,000	78148
GRF	200511	Auxiliary Services	$ 124,194,099	$ 126,194,099	78149
GRF	200532	Nonpublic Administrative Cost Reimbursement	$ 56,164,384	$ 57,006,850	78150
GRF	200540	Special Education Enhancements	$ 135,820,668	$ 135,820,668	78151
GRF	200545	Career-Technical Education Enhancements	$ 8,802,699	$ 8,802,699	78152
GRF	200550	Foundation Funding	$ 5,536,347,861	$ ~~5,610,290,686~~ 5,612,562,311	78153
GRF	200901	Property Tax Allocation - Education	$ 1,086,500,000	$ 1,095,000,000	78154
TOTAL GRF General Revenue Fund			$ 7,539,595,467	$ ~~7,628,256,477~~ 7,630,028,102	78155
General Services Fund Group					78156
1380	200606	~~Computer Services-Operational~~ Information Technology Development and Support	$ 7,600,090	$ ~~7,600,090~~ 6,100,090	78157
4520	200638	~~Miscellaneous Educational Services~~ Fees and Refunds	$ 300,000	$ 300,000	78158
4L20	200681	Teacher Certification and Licensure	$ 8,147,756	$ 8,147,756	78159
5960	200656	Ohio Career Information System	$ 529,761	$ 529,761	78160
5H30	200687	School District Solvency Assistance	$ 25,000,000	$ 25,000,000	78161
TOTAL GSF General Services Fund Group			$ 41,577,607	$ ~~41,577,607~~	78162 78163

				40,077,607	
Federal Special Revenue Fund Group					78164
3090	200601	Neglected and Delinquent Education	$ 2,168,642	$ 2,168,642	78165
3670	200607	School Food Services	$ 6,803,472	$ 6,959,906	78166
3690	200616	Career-Technical Education Federal Enhancement	$ 5,000,000	$ 5,000,000	78167
3700	200624	Education of Exceptional Children	$ 1,905,000	$ 0	78168
3780	200660	Learn and Serve	$ 619,211	$ 619,211	78169
3AF0	200603	Schools Medicaid Administrative Claims	$ 639,000	$ 639,000	78170
3AN0	200671	School Improvement Grants	$ 20,400,000	$ 20,400,000	78171
3AX0	200698	Improving Health and Educational Outcomes of Young People	$ 630,954	$ 630,954	78172
3BK0	200628	Longitudinal Data Systems	$ 500,000	$ 250,000	78173
3C50	200661	Early Childhood Education	$ 14,554,749	$ 14,554,749	78174
3CG0	200646	Teacher Incentive Fund	$ 1,925,881	$ 0	78175
3D10	200664	Drug Free Schools	$ 1,500,000	$ 0	78176
3D20	200667	Math Science Partnerships	$ 9,500,001	$ 9,500,001	78177
3DG0	200630	Federal Stimulus - McKinney Vento Grants	$ 330,512	$ 0	78178
3DJ0	200699	IDEA Part B - Federal Stimulus	$ 21,886,803	$ 0	78179
3DK0	200642	Title 1A - Federal Stimulus	$ 18,633,673	$ 0	78180

3DL0	200650	IDEA Preschool - Federal Stimulus	$ 670,000	$ 0	78181
3DM0	200651	Title IID Technology - Federal Stimulus	$ 1,195,100	$ 0	78182
3DP0	200652	Title I School Improvement - Federal Stimulus	$ 48,500,000	$ 30,000,000	78183
3EC0	200653	Teacher Incentive - Federal Stimulus	$ 7,500,000	$ 7,500,000	78184
3EH0	200620	Migrant Education	$ 2,645,905	$ 2,645,905	78185
3EJ0	200622	Homeless Children Education	$ 1,759,782	$ 1,759,782	78186
3EN0	200655	State Data Systems - Federal Stimulus	$ 2,500,000	$ 2,500,000	78187
3ES0	200657	General Supervisory Enhancement Grant	$ 500,000	$ 500,000	78188
3ET0	200658	Education Jobs Fund	$ 300,000,000	$ 50,000,000	78189
3FD0	200665	Race to the Top	$ 100,000,000	$ 100,000,000	78190
3FE0	200669	Striving Readers	$ 180,000	$ 100,000	78191
3H90	200605	Head Start Collaboration Project	$ 225,000	$ 225,000	78192
3L60	200617	Federal School Lunch	$ 327,516,539	$ 337,323,792	78193
3L70	200618	Federal School Breakfast	$ 87,596,850	$ 90,224,756	78194
3L80	200619	Child/Adult Food Programs	$ 100,850,833	$ 103,876,359	78195
3L90	200621	Career-Technical Education Basic Grant	$ 48,466,864	$ 48,466,864	78196
3M00	200623	ESEA Title 1A	$ 530,010,000	$ 530,010,000	78197
3M20	200680	Individuals with Disabilities Education Act	$ 443,170,050	$ 443,170,050	78198
3S20	200641	Education Technology	$ 9,487,397	$ 9,487,397	78199

3T40	200613	Public Charter Schools	$ 14,291,353	$ 14,291,353	78200
3Y20	200688	21st Century Community Learning Centers	$ 43,720,462	$ 45,906,485	78201
3Y60	200635	Improving Teacher Quality	$ 101,900,000	$ 101,900,000	78202
3Y70	200689	English Language Acquisition	$ 8,373,995	$ 8,373,995	78203
3Y80	200639	Rural and Low Income Technical Assistance	$ 1,500,000	$ 1,500,000	78204
3Z20	200690	State Assessments	$ 11,882,258	$ 11,882,258	78205
3Z30	200645	Consolidated Federal Grant Administration	$ 8,949,280	$ ~~8,949,280~~ 7,949,280	78206
TOTAL FED Federal Special Revenue Fund Group			$ 2,310,389,566	$ ~~2,011,315,739~~ 2,010,315,739	78207 78208
State Special Revenue Fund Group					78209
4540	200610	~~Guidance and~~ GED Testing	$ 1,050,000	$ 1,050,000	78210
4550	200608	Commodity Foods	$ 24,000,000	$ 24,000,000	78211
4R70	200695	Indirect Operational Support	$ 6,500,000	$ 6,600,000	78212
4V70	200633	Interagency ~~Operational~~ Program Support	$ 1,117,725	$ ~~1,117,725~~ 717,725	78213
5980	200659	Auxiliary Services Reimbursement	$ 1,328,910	$ 1,328,910	78214
5BB0	200696	State Action for Education Leadership	$ 231,300	$ 0	78215
5BJ0	200626	Half-Mill Maintenance Equalization	$ 17,300,000	$ 18,000,000	78216
5U20	200685	National Education	$ 300,000	$ 300,000	78217

		Statistics			
6200	200615	Educational Improvement Grants	$ 3,000,000	$ 3,000,000	78218
TOTAL SSR State Special Revenue Fund Group			$ 54,827,935	$ ~~55,396,635~~ 54,996,635	78219 78220
Lottery Profits Education Fund Group					78221
7017	200612	Foundation Funding	$ 717,500,000	$ 680,500,000	78222
TOTAL LPE Lottery Profits Education Fund Group			$ 717,500,000	$ 680,500,000	78223 78224
Revenue Distribution Fund Group					78225
7047	200909	School District Property Tax Replacement-Business	$ 722,000,000	$ 475,000,000	78226
7053	200900	School District Property Tax Replacement-Utility	$ 34,000,000	$ 30,000,000	78227
TOTAL RDF Revenue Distribution Fund Group			$ 756,000,000	$ 505,000,000	78228 78229
TOTAL ALL BUDGET FUND GROUPS			$11,419,890,575	$ ~~10,922,046,458~~ 10,920,918,083	78230

Sec. 267.10.10. OPERATING EXPENSES 78232

The foregoing appropriation item 200321, Operating Expenses, shall be used to support the same activities as are supported prior to July 1, 2012, by appropriation items 200100, Personal Services, and 200320, Maintenance and Equipment. A portion of this appropriation item also shall be used by the Department of Education to provide matching funds under 20 U.S.C. 2321, which are provided by appropriation item 200416, Career-Technical Education Match, prior to July 1, 2012. 78233 78234 78235 78236 78237 78238 78239 78240

On July 1, 2012, or as soon as possible thereafter, the 78241

Director of Budget and Management shall cancel any existing encumbrances against appropriation items 200100, Personal Services, 200320, Maintenance and Equipment, and 200416, Career-Technical Education Match, and reestablish them against appropriation item 200321, Operating Expenses. The reestablished encumbrance amounts are hereby appropriated.

EARLY CHILDHOOD EDUCATION

The Department of Education shall distribute the foregoing appropriation item 200408, Early Childhood Education, to pay the costs of early childhood education programs.

(A) As used in this section:

(1) "Provider" means a city, local, exempted village, or joint vocational school district, or an educational service center.

(2) In the case of a city, local, or exempted village school district, "new eligible provider" means a district that did not receive state funding for Early Childhood Education in the previous fiscal year or demonstrates a need for early childhood programs as defined in division (D) of this section.

(3) "Eligible child" means a child who is at least three years of age as of the district entry date for kindergarten, is not of the age to be eligible for kindergarten, and whose family earns not more than two hundred per cent of the federal poverty guidelines as defined in division (A)(3) of section 5101.46 of the Revised Code. Children with an Individualized Education Program and where the Early Childhood Education program is the least restrictive environment may be enrolled on their third birthday.

(B) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve

eligible children.

(C) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program guidelines.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2012, the Department shall distribute funds first to recipients of funds for early childhood education programs under Section 265.10.20 of Am. Sub. H.B. 1 of the 128th General Assembly in the previous fiscal year and the balance to new eligible providers of early childhood education programs under this section or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2013, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the balance to new eligible providers or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

Awards under this section shall be distributed on a per-pupil basis, and in accordance with division (H) of this section. The Department may adjust the per-pupil amount so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services on the first day of December or the business day closest to that date equals the amount allocated under this section.

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (J) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines. The approved provider shall administer and use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines<u>, meet a quality rating level in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code as prescribed by the Department,</u> or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early

childhood education program. The Department may withhold funding pending corrective action. If an early childhood education program fails to satisfactorily complete a corrective action plan, the Department may deny expansion funding to the program or withdraw all or part of the funding to the program and establish a new eligible provider through a selection process established by the Department.

(G) Each early childhood education program shall do all of the following:

(1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;

(2) Align curriculum to the early learning content standards developed by the Department;

(3) Meet any child or program assessment requirements prescribed by the Department;

(4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours every two years of professional development as prescribed by the Department;

(5) Document and report child progress as prescribed by the Department;

(6) Meet and report compliance with the early learning program guidelines as prescribed by the Department;

(7) Participate in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code. Effective July 1, 2016, all programs shall be rated through the system.

(H) Per-pupil funding for programs subject to this section shall be sufficient to provide eligible children with services for a standard early childhood schedule which shall be defined in this

section as a minimum of twelve and one-half hours per school week as defined in section 3313.62 of the Revised Code for the minimum school year as defined in sections 3313.48, 3313.481, and 3313.482 of the Revised Code. Nothing in this section shall be construed to prohibit program providers from utilizing other funds to serve eligible children in programs that exceed the twelve and one-half hours per week or that exceed the minimum school year. For any provider for which a standard early childhood education schedule creates a hardship or for which the provider shows evidence that the provider is working in collaboration with a preschool special education program, the provider may submit a waiver to the Department requesting an alternate schedule. If the Department approves a waiver for an alternate schedule that provides services for less time than the standard early childhood education schedule, the Department may reduce the provider's annual allocation proportionately. Under no circumstances shall an annual allocation be increased because of the approval of an alternate schedule.

(I) Each provider shall develop a sliding fee scale based on family incomes and shall charge families who earn more than two hundred per cent of the federal poverty guidelines, as defined in division (A)(3) of section 5101.46 of the Revised Code, for the early childhood education program.

The Department shall conduct an annual survey of each provider to determine whether the provider charges families tuition or fees, the amount families are charged relative to family income levels, and the number of families and students charged tuition and fees for the early childhood program.

(J) If an early childhood education program voluntarily waives its right for funding, or has its funding eliminated for not meeting financial standards or the early learning program guidelines, the provider shall transfer control of title to

property, equipment, and remaining supplies obtained through the program to providers designated by the Department and return any unexpended funds to the Department along with any reports prescribed by the Department. The funding made available from a program that waives its right for funding or has its funding eliminated or reduced may be used by the Department for new grant awards or expansion grants. The Department may award new grants or expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the selection process established by the Department.

(K) As used in this section, "early learning program guidelines" means the guidelines established by the Department pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 66 of the 126th General Assembly.

(L) Eligible expenditures for the Early Childhood Education program shall be claimed each fiscal year to help meet the state's TANF maintenance of effort requirement. The Superintendent of Public Instruction and the Director of Job and Family Services shall enter into an interagency agreement to carry out the requirements under this division, which shall include developing reporting guidelines for these expenditures.

Sec. 267.10.20. CAREER-TECHNICAL EDUCATION MATCH

~~The~~ For fiscal year 2012, the foregoing appropriation item 200416, Career-Technical Education Match, shall be used by the Department of Education to provide ~~vocational administration~~ matching funds under 20 U.S.C. ~~2311~~ 2321.

~~The Director of Budget and Management shall transfer any remaining appropriation from appropriation item 200416, Career-Technical Education Match, to appropriation item 200426, Ohio Educational Computer Network, to support the Ohio Educational Computer Network.~~

~~COMPUTER/APPLICATION/NETWORK~~ INFORMATION TECHNOLOGY DEVELOPMENT AND SUPPORT

The foregoing appropriation item 200420, ~~Computer/Application/Network~~ Information Technology Development and Support, shall be used to support the development and implementation of information technology solutions designed to improve the performance and services of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators. Funds may also be used to support data-driven decision-making and differentiated instruction, as well as to communicate academic content standards and curriculum models to schools through web-based applications.

Sec. 267.10.40. SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200422, School Management Assistance, $1,000,000 in each fiscal year ~~2012 and $1,300,000 in fiscal year 2013~~ shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used by the Auditor of State to conduct performance audits of other school districts with priority given to districts in fiscal distress. Districts in fiscal distress shall be determined by the Auditor of State and shall include districts that the Auditor of State, in consultation with the Department of Education, determines are employing fiscal practices or experiencing budgetary conditions

that could produce a state of fiscal watch or fiscal emergency.

The remainder of appropriation item 200422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal caution, fiscal watch, and fiscal emergency provisions under Chapter 3316. of the Revised Code.

COMMUNITY SCHOOL AND CHOICE PROGRAMS

An amount equal to the unexpended, unencumbered balances of the GRF appropriations for the Department of Education at the end of fiscal year 2012, but not to exceed $600,000, is hereby reappropriated to appropriation item 200455, Community Schools and Choice Programs, for fiscal year 2013 for the Department of Education to provide STEM schools with matching funds for industry workforce development initiatives.

If the unexpended, unencumbered balances reappropriated above are less than $600,000, the Superintendent of Public Instruction shall identify outstanding GRF encumbrances of the Department for fiscal year 2012 and prior fiscal years that are no longer needed to support the obligations of the Department. On July 1, 2012, or as soon as possible thereafter, the Superintendent shall certify the identified encumbrances to the Director of Budget and Management. Upon receipt of the certification, the Director of Budget and Management shall cancel identified encumbrances in an amount up to the difference between $600,000 and the amount reappropriated above. The amount of canceled encumbrances is hereby appropriated to appropriation item 200455, Community Schools and Choice Programs, for fiscal year 2013 for the Department of Education to provide STEM schools with matching funds for industry workforce development initiatives.

Sec. 267.30.20. SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200540, Special Education Enhancements, up to $2,206,875 in each fiscal year shall be used for home instruction for children with disabilities.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to $45,282,959 in each fiscal year shall be used to fund special education and related services at county boards of developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code. Notwithstanding the distribution formulas under sections 3317.20 and 3317.201 of the Revised Code, funding for DD boards and institutions for fiscal year 2012 and fiscal year 2013 shall be determined by providing the per pupil amount received by each DD board and institution for the prior fiscal year for each student served in the current fiscal year.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to $1,333,468 in each fiscal year shall be used for parent mentoring programs.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to $2,537,824 in each fiscal year may be used for school psychology interns.

The remainder of appropriation item 200540, Special Education Enhancements, shall be distributed by the Department of Education to county boards of developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units under section 3317.052 of the Revised Code. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers.

The Department may reimburse county DD boards, educational service centers, and school districts for services provided by

instructional assistants, related services as defined in rule 3301-51-11 of the Administrative Code, physical therapy services provided by a licensed physical therapist or physical therapist assistant under the supervision of a licensed physical therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-27 of the Administrative Code and occupational therapy services provided by a licensed occupational therapist or occupational therapy assistant under the supervision of a licensed occupational therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-7 of the Administrative Code. Nothing in this section authorizes occupational therapy assistants or physical therapist assistants to generate or manage their own caseloads.

The Department of Education shall require school districts, educational service centers, and county DD boards serving preschool children with disabilities to adhere to Ohio's Early Learning Program Guidelines, participate in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code, and document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and method shall be determined by the Department. Effective July 1, 2018, all programs shall be rated through the tiered quality rating and improvement system.

Sec. 267.30.40. FOUNDATION FUNDING

Of the foregoing appropriation item 200550, Foundation Funding, up to $675,000 in each fiscal year shall be used to support the work of the College of Education and Human Ecology at the Ohio State University in reviewing and assessing the alignment of courses offered through the distance learning clearinghouse established in sections 3333.81 to 3333.88 of the Revised Code with the academic content standards adopted under division (A) of

section 3301.079 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to $250,000 in each fiscal year may be used by the Department to fund a shared services pilot project involving at least two educational service centers. The pilot project shall focus on the design, implementation, and evaluation of a shared service delivery model. The educational service centers participating in the pilot project shall submit a report not later than September 1, 2013, to the Governor, members of the General Assembly, and members of the State Board of Education, reviewing the opportunities and challenges of implementing shared services initiatives as well as any real or projected cost efficiencies achieved through the pilot project.

Of the foregoing appropriation item 200550, Foundation Funding, up to $50,000 shall be expended in each fiscal year for court payments under section 2151.362 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to $8,100,000 in each fiscal year shall be used to fund gifted education at educational service centers. Notwithstanding division (D)(5) of section 3317.018 of the Revised Code, the Department shall distribute the funding through the unit-based funding methodology in place under division (L) of section 3317.024, division (E) of section 3317.05, and divisions (A), (B), and (C) of section 3317.053 of the Revised Code as they existed prior to fiscal year 2010.

Of the foregoing appropriation item 200550, Foundation Funding, up to $10,000,000 in each fiscal year shall be used to provide additional state aid to school districts, joint vocational school districts, and community schools for special education students under division (C)(3) of section 3317.022 of the Revised Code, except that the Controlling Board may increase these amounts if presented with such a request from the Department of Education

at the final meeting of the fiscal year; and up to $2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments under section 3317.024 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to $41,760,000 in fiscal year 2012 and up to $35,496,000 in fiscal year 2013 shall be reserved to fund the state reimbursement of educational service centers under section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING"; and up to $3,545,752 in each fiscal year shall be distributed to educational service centers for School Improvement Initiatives. Educational service centers shall be required to support districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317.

Of the foregoing appropriation item 200550, Foundation Funding, up to $700,000 in each fiscal year shall be used by the Department of Education for a program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section of this act entitled "PRIVATE TREATMENT FACILITY PROJECT."

Of the foregoing appropriation item 200550, Foundation Funding, up to $12,522,860 in ~~each~~ fiscal year 2012 and up to $14,794,485 in fiscal year 2013 shall be used to support ~~the Cleveland~~ school choice ~~program~~ programs.

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to $11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District under sections

3313.974 to 3313.979 of the Revised Code. Notwithstanding divisions (B) and (C) of section 3313.978 and division (C) of section 3313.979 of the Revised Code, up to $1,000,000 in each fiscal year of this amount shall be used by the Cleveland Municipal School District to provide tutorial assistance as provided in division (H) of section 3313.974 of the Revised Code. The Cleveland Municipal School District shall report the use of these funds in the district's three-year continuous improvement plan as described in section 3302.04 of the Revised Code in a manner approved by the Department of Education.

Any sums, in addition to the amounts specifically appropriated in appropriation item 200550, Foundation Funding, for payments of the scholarships required under sections 3313.974 to 3313.979 of the Revised Code, which are determined to be necessary by the Superintendent of Public Instruction, are hereby appropriated.

Of the foregoing appropriation item 200550, Foundation Funding, an amount shall be available in each fiscal year to be paid to joint vocational school districts in accordance with the section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to city, exempted village, and local school districts in accordance with the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT FUNDING."

Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to school districts and community schools in accordance with the section of this act entitled "SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS."

The remainder of appropriation item 200550, Foundation

Funding, shall be used to distribute the amounts calculated for formula aid under Section 267.30.50 of this act.

Appropriation items 200502, Pupil Transportation, 200540, Special Education Enhancements, and 200550, Foundation Funding, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts, community schools, STEM schools, and joint vocational school districts under this act. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations. It may be necessary to reallocate funds among these appropriation items or use excess funds from other general revenue fund appropriation items in the Department of Education's budget in each fiscal year, in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items or to transfer funds from other General Revenue Fund appropriations in the Department of Education's budget to meet state formula aid obligations, the Department of Education shall seek approval from the Controlling Board to transfer funds as needed.

Sec. 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY

General Services Fund Group				
1990	715602	Laboratory Services	$ 402,295	$ 408,560
2190	715604	Central Support Indirect	$ 8,594,348	$ 8,555,680
4A10	715640	Operating Expenses	$ 2,304,267	$ 2,093,039
<u>4D50</u>	<u>715618</u>	<u>Recycled State Materials</u>	<u>$ 0</u>	<u>$ 50,000</u>
TOTAL GSF General Services Fund Group			$ 11,300,910	$ ~~11,057,279~~ <u>11,107,279</u>
Federal Special Revenue Fund Group				

3530	715612	Public Water Supply	$ 2,941,282	$ 2,941,282	78676
3540	715614	Hazardous Waste Management - Federal	$ 4,193,000	$ 4,193,000	78677
3570	715619	Air Pollution Control - Federal	$ 6,310,203	$ 6,310,203	78678
3620	715605	Underground Injection Control - Federal	$ 111,874	$ 111,874	78679
3BU0	715684	Water Quality Protection	$ 8,100,000	$ 6,785,000	78680
3CS0	715688	Federal NRD Settlements	$ 100,000	$ 100,000	78681
3F20	715630	Revolving Loan Fund - Operating	$ 907,543	$ 907,543	78682
3F30	715632	Federally Supported Cleanup and Response	$ 3,344,746	$ 3,290,405	78683
3F50	715641	Nonpoint Source Pollution Management	$ 6,265,000	$ 6,260,000	78684
3T30	715669	Drinking Water State Revolving Fund	$ 2,273,323	$ 2,273,323	78685
3V70	715606	Agencywide Grants	$ 600,000	$ 600,000	78686
TOTAL FED Federal Special Revenue Fund Group			$ 35,146,971	$ 33,772,630	78687 78688
State Special Revenue Fund Group					78689
4J00	715638	Underground Injection Control	$ 445,234	$ 445,571	78690
4K20	715648	Clean Air - Non Title V	$ 3,152,306	$ 2,906,267	78691
4K30	715649	Solid Waste	$ 16,742,551	$ 16,414,654	78692
4K40	715650	Surface Water Protection	$ 7,642,625	$ 6,672,246	78693
4K40	715686	Environmental Lab Service	$ 2,096,007	$ 2,096,007	78694
4K50	715651	Drinking Water	$ 7,410,118	$ 7,405,428	78695

		Protection			
4P50	715654	Cozart Landfill	$ 100,000	$ 100,000	78696
4R50	715656	Scrap Tire Management	$ 1,368,610	$ 1,376,742	78697
4R90	715658	Voluntary Action Program	$ 999,503	$ 997,425	78698
4T30	715659	Clean Air - Title V Permit Program	$ 16,349,471	$ 16,241,822	78699
4U70	715660	Construction and Demolition Debris	$ 425,913	$ 433,591	78700
5000	715608	Immediate Removal Special Account	$ 633,832	$ 634,033	78701
5030	715621	Hazardous Waste Facility Management	$ 10,241,107	$ 9,789,620	78702
5050	715623	Hazardous Waste Cleanup	$ 12,511,234	$ 12,331,272	78703
5050	715674	Clean Ohio Environmental Review	$ 108,104	$ 108,104	78704
5320	715646	Recycling and Litter Control	$ 0	$ 4,911,575	78705
5410	715670	Site Specific Cleanup	$ 2,048,101	$ 2,048,101	78706
5420	715671	Risk Management Reporting	$ 132,636	$ 132,636	78707
5860	715637	Scrap Tire Market Development	$ 0	$ 1,497,645	78708
5920	715627	Anti Tampering Settlement	$ 2,285	$ 2,285	78709
5BC0	715617	Clean Ohio	$ 611,455	$ 611,455	78710
5BC0	715622	Local Air Pollution Control	$ 2,297,980	$ 2,297,980	78711
5BC0	715624	Surface Water	$ 8,970,181	$ 9,114,974	78712
5BC0	715672	Air Pollution Control	$ 4,438,629	$ 4,534,758	78713
5BC0	715673	Drinking and Ground Water	$ 4,317,527	$ 4,323,521	78714

5BC0	715675	Hazardous Waste	$ 95,266	$ 95,266	78715
5BC0	715676	Assistance and Prevention	$ 640,179	$ 645,069	78716
5BC0	715677	Laboratory	$ 939,717	$ 958,586	78717
5BC0	715678	Corrective Actions	$ 31,765	$ 105,423	78718
5BC0	715687	Areawide Planning Agencies	$ 450,000	$ 450,000	78719
5BC0	715692	Administration	$ 8,562,476	$ 8,212,627	78720
5BT0	715679	C&DD Groundwater Monitoring	$ 203,800	$ 203,800	78721
5BY0	715681	Auto Emissions Test	$ 13,029,952	$ ~~13,242,762~~ 11,242,762	78722
5CD0	715682	Clean Diesel School Buses	$ 600,000	$ 600,000	78723
5H40	715664	Groundwater Support	$ 77,508	$ 78,212	78724
5N20	715613	Dredge and Fill	$ 29,250	$ 29,250	78725
5Y30	715685	Surface Water Improvement	$ 2,800,000	$ 2,800,000	78726
6440	715631	ER Radiological Safety	$ 279,838	$ 279,966	78727
6600	715629	Infectious Waste Management	$ 91,573	$ 88,764	78728
6760	715642	Water Pollution Control Loan Administration	$ 4,317,376	$ 4,321,605	78729
6780	715635	Air Toxic Release	$ 138,669	$ 138,669	78730
6790	715636	Emergency Planning	$ 2,623,192	$ 2,623,252	78731
6960	715643	Air Pollution Control Administration	$ 1,100,000	$ 1,100,000	78732
6990	715644	Water Pollution Control Administration	$ 220,000	$ 220,000	78733
6A10	715645	Environmental Education	$ 1,488,260	$ 1,488,718	78734
TOTAL SSR		State Special Revenue	$ 140,764,230	$ ~~138,700,461~~	78735

Fund Group			143,109,681	
Clean Ohio Conservation Fund Group				78736
5S10 715607	Clean Ohio - Operating	$ 284,083	$ 284,124	78737
TOTAL CLF Clean Ohio Conservation Fund Group		$ 284,083	$ 284,124	78738
TOTAL ALL BUDGET FUND GROUPS		$ 187,496,194	~~183,814,494~~ 188,273,714	78739

AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT 78740

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management may transfer up to $13,029,952 in cash in fiscal year 2012, and up to ~~$13,242,762~~ 11,242,762 in cash in fiscal year 2013 from the General Revenue Fund to the Auto Emissions Test Fund (Fund 5BY0) for the operation and oversight of the auto emissions testing program. 78741 78742 78743 78744 78745 78746

AREAWIDE PLANNING AGENCIES 78747

The Director of Environmental Protection Agency may award grants from appropriation item 715687, Areawide Planning Agencies, to areawide planning agencies engaged in areawide water quality management and planning activities in accordance with Section 208 of the "Federal Clean Water Act," 33 U.S.C. 1288. 78748 78749 78750 78751 78752

CORRECTIVE CASH TRANSFERS 78753

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer $376,891.85 in cash that was mistakenly deposited in the Clean Air Non Title V Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30). 78754 78755 78756 78757

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer $133,026.63 in cash that was mistakenly deposited in the Scrap Tire Management Fund (Fund 4R50) to the Site Specific Cleanup Fund (Fund 5410). 78758 78759 78760 78761

Sec. 283.10. ETC ETECH OHIO

General Revenue Fund					
GRF	935401	Statehouse News Bureau	$ 215,561	$ 215,561	
GRF	935402	Ohio Government Telecommunications Services	$ 702,089	$ ~~702,089~~ 1,002,089	
GRF	935408	General Operations	$ 1,251,789	$ 1,254,193	
GRF	935409	Technology Operations	$ 2,092,432	$ 2,091,823	
GRF	935410	Content Development, Acquisition, and Distribution	$ 2,607,094	$ 2,607,094	
GRF	935411	Technology Integration and Professional Development	$ 4,251,185	$ 4,252,671	
GRF	935412	Information Technology	$ 829,340	$ 829,963	
TOTAL GRF General Revenue Fund			$ 11,949,490	$ ~~11,953,394~~ 12,253,394	
General Services Fund Group					
4F30	935603	Affiliate Services	$ 50,000	$ 50,000	
4T20	935605	Government Television/Telecommunications Operating	$ 25,000	$ 25,000	
TOTAL GSF General Services Fund Group			$ 75,000	$ 75,000	
State Special Revenue Fund Group					
4W90	935630	Telecommunity	$ 25,000	$ 25,000	
4X10	935634	Distance Learning	$ 24,150	$ 24,150	
5D40	935640	Conference/Special	$ 2,100,000	$ 2,100,000	

		Purposes			
5FK0	935608	Media Services	$ 637,601	$ 637,956	78780
5JU0	935611	Information Technology Services	$ 1,455,000	$ 1,455,000	78781
5T30	935607	Gates Foundation Grants	$ 200,000	$ 171,112	78782
TOTAL SSR State Special Revenue Fund Group			$ 4,441,751	$ 4,413,218	78783
TOTAL ALL BUDGET FUND GROUPS			$ 16,466,241	$ ~~16,441,612~~ 16,741,612	78784

Sec. 287.10. EXP OHIO EXPOSITIONS COMMISSION 78786

General Revenue Fund					78787
GRF	723403	Junior Fair Subsidy	$ 250,000	$ 250,000	78788
GRF	723501	Building Construction	$ 0	$ 1,000,000	78789
TOTAL GRF General Revenue Fund			$ 250,000	$ ~~250,000~~ 1,250,000	78790
State Special Revenue Fund Group					78791
4N20	723602	Ohio State Fair Harness Racing	$ 400,000	$ 400,000	78792
5060	723601	Operating Expenses	$ 12,991,000	$ 12,894,000	78793
TOTAL SSR State Special Revenue Fund Group			$ 13,391,000	$ 13,294,000	78794 78795
TOTAL ALL BUDGET FUND GROUPS			$ 13,641,000	$ ~~13,544,000~~ 14,544,000	78796

STATE FAIR RESERVE 78797

The General Manager of the Expositions Commission may submit a request to the Controlling Board to use available amounts in the State Fair Reserve Fund (Fund 6400) if the following conditions apply: 78798 78799 78800 78801

(A) Admissions receipts for the 2011 or 2012 Ohio State Fair are less than $1,982,000 because of inclement weather or 78802 78803

extraordinary circumstances;

(B) The Ohio Expositions Commission declares a state of fiscal exigency; and

(C) The request contains a plan describing how the Expositions Commission will eliminate the cash shortage causing the request.

The amount approved by the Controlling Board is hereby appropriated.

BUILDING CONSTRUCTION

The foregoing GRF appropriation item 723501, Building Construction, shall be used for acquiring purchased services and for construction of a new Expositions facility for which matching funds are received in the amount of $1,000,000 from a private sector partnering entity.

Sec. 291.10. DOH DEPARTMENT OF HEALTH

General Revenue Fund

GRF 440412	Cancer Incidence Surveillance System	$ 600,000	$ 600,000
GRF 440413	Local Health Department Support	$ 2,302,788	$ 2,303,061
GRF 440416	Mothers and Children Safety Net Services	$ 4,227,842	$ 4,228,015
GRF 440418	Immunizations	$ 6,430,538	~~$ 8,930,829~~ $ 8,825,829
GRF 440431	Free Clinics Safety Net Services	$ 437,326	$ 437,326
GRF 440438	Breast and Cervical Cancer Screening	$ 823,217	$ 823,217
GRF 440444	AIDS Prevention and Treatment	$ 5,842,315	$ 5,842,315

GRF 440451	Public Health Laboratory	$ 3,654,348	$ 3,655,449	78827
GRF 440452	Child and Family Health Services Match	$ 630,390	$ 630,444	78828
GRF 440453	Health Care Quality Assurance	$ 8,170,694	$ 8,174,361	78829
GRF 440454	Local Environmental Health	$ 1,310,141	$ ~~1,310,362~~ 1,194,634	78830
GRF 440459	Help Me Grow	$ 33,673,545	$ 33,673,987	78831
GRF 440465	Federally Qualified Health Centers	$ 458,688	$ 2,686,688	78832
GRF 440467	Access to Dental Care	$ 540,484	$ 540,484	78833
GRF 440468	Chronic Disease and Injury Prevention	$ 2,577,251	$ ~~2,577,251~~ 2,447,251	78834
GRF 440472	Alcohol Testing	$ 550,000	$ 1,100,000	78835
GRF 440505	Medically Handicapped Children	$ 7,512,451	$ 7,512,451	78836
GRF 440507	Targeted Health Care Services Over 21	$ 1,045,414	$ 1,045,414	78837
TOTAL GRF General Revenue Fund		$ 80,787,432	$ ~~86,071,654~~ 85,720,926	78838
State Highway Safety Fund Group				78839
4T40 440603	Child Highway Safety	$ 233,894	$ 233,894	78840
TOTAL HSF State Highway Safety Fund Group		$ 233,894	$ 233,894	78841 78842
General Services Fund Group				78843
1420 440646	Agency Health Services	$ 8,825,788	$ 8,826,146	78844
2110 440613	Central Support Indirect Costs	$ 28,900,000	$ 29,000,000	78845
4730 440622	Lab Operating Expenses	$ 5,000,000	$ 5,000,000	78846

5HB0	440470	Breast and Cervical Cancer Screening	$ 1,000,000	$ 0	78847
6830	440633	Employee Assistance Program	$ 1,100,000	$ 1,100,000	78848
6980	440634	Nurse Aide Training	$ 99,239	$ 99,265	78849
TOTAL GSF General Services Fund Group			$ 44,925,027	$ 44,025,411	78850 78851
Federal Special Revenue Fund Group					78852
3200	440601	Maternal Child Health Block Grant	$ 27,068,886	$ 27,068,886	78853
3870	440602	Preventive Health Block Grant	$ 7,826,659	$ 7,826,659	78854
3890	440604	Women, Infants, and Children	$ 308,672,689	$ 308,672,689	78855
3910	440606	Medicaid/Medicare	$ 29,625,467	$ 29,257,457	78856
3920	440618	Federal Public Health Programs	$ 137,976,988	$ 137,976,988	78857
TOTAL FED Federal Special Revenue Fund Group			$ 511,170,689	$ 510,802,679	78858 78859
State Special Revenue Fund Group					78860
4700	440647	Fee Supported Programs	$ 24,503,065	$ ~~24,513,973~~ 24,263,973	78861
4710	440619	Certificate of Need	$ 878,145	$ 878,433	78862
4770	440627	Medically Handicapped Children Audit	$ 3,692,704	$ 3,692,703	78863
4D60	440608	Genetics Services	$ 3,310,953	$ 3,311,039	78864
4F90	440610	Sickle Cell Disease Control	$ 1,032,754	$ 1,032,824	78865
4G00	440636	Heirloom Birth Certificate	$ 5,000	$ 5,000	78866
4G00	440637	Birth Certificate Surcharge	$ 5,000	$ 5,000	78867

4L30	440609	Miscellaneous Expenses	$ 3,333,164	$ 3,333,164	78868
4P40	440628	Ohio Physician Loan Repayment	$ 476,870	$ 476,870	78869
4V60	440641	Save Our Sight	$ 2,255,760	$ 2,255,789	78870
5B50	440616	Quality, Monitoring, and Inspection	$ 878,638	$ 878,997	78871
5C00	440615	Alcohol Testing and Permit	$ 551,018	$ 0	78872
5CN0	440645	Choose Life	$ 75,000	$ 75,000	78873
5D60	440620	Second Chance Trust	$ 1,151,815	$ 1,151,902	78874
5ED0	440651	Smoke Free Indoor Air	$ 190,452	$ 190,452	78875
5G40	440639	Adoption Services	$ 20,000	$ 20,000	78876
5L10	440623	Nursing Facility Technical Assistance Program	$ 687,500	$ 687,528	78877
5Z70	440624	Ohio Dentist Loan Repayment	$ 140,000	$ 140,000	78878
6100	440626	Radiation Emergency Response	$ 930,525	$ 930,576	78879
6660	440607	Medically Handicapped Children - County Assessments	$ 19,738,286	$ 19,739,617	78880
TOTAL SSR State Special Revenue					78881
Fund Group			$ 63,856,649	$ ~~63,318,867~~ 63,068,867	78882
Holding Account Redistribution Fund Group					78883
R014	440631	Vital Statistics	$ 44,986	$ 44,986	78884
R048	440625	Refunds, Grants Reconciliation, and Audit Settlements	$ 20,000	$ 20,000	78885
TOTAL 090 Holding Account					78886
Redistribution Fund Group			$ 64,986	$ 64,986	78887

Tobacco Master Settlement Agreement Fund Group					78888
5BX0	440656	Tobacco Use Prevention	$ 1,000,000	$ 1,000,000	78889
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			$ 1,000,000	$ 1,000,000	78890
TOTAL ALL BUDGET FUND GROUPS			$ 702,038,677	$ ~~705,517,491~~ 704,916,763	78891

Sec. 307.10. INS DEPARTMENT OF INSURANCE 78893

Federal Special Revenue Fund Group					78894
3EV0	820610	Health Insurance Premium Review	$ 1,000,000	$ 1,000,000	78895
3EW0	820611	Health Exchange Planning	$ 1,000,000	$ 1,000,000	78896
3U50	820602	OSHIIP Operating Grant	$ 2,270,726	$ 2,270,725	78897
TOTAL FED Federal Special Revenue Fund Group			$ 4,270,726	$ 4,270,725	78898 78899
State Special Revenue Fund Group					78900
5540	820601	Operating Expenses - OSHIIP	$ 190,000	$ 180,000	78901
5540	820606	Operating Expenses	$ 22,745,538	$ ~~22,288,550~~ 22,931,817	78902
5550	820605	Examination	$ 9,065,684	$ ~~8,934,065~~ 8,184,065	78903
TOTAL SSR State Special Revenue Fund Group			$ 32,001,222	$ ~~31,402,615~~ 31,295,882	78904 78905
TOTAL ALL BUDGET FUND GROUPS			$ 36,271,948	$ ~~35,673,340~~ 35,566,607	78906

MARKET CONDUCT EXAMINATION 78907

When conducting a market conduct examination of any insurer 78908

doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or rules administered by the superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 5540).

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES

The Director of Budget and Management, at the request of the Superintendent of Insurance, may transfer funds from the Department of Insurance Operating Fund (Fund 5540), established by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 5550), established by section 3901.071 of the Revised Code, only for expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND

Not later than the thirty-first day of July each fiscal year, the Director of Budget and Management shall transfer $5,000,000 from the Department of Insurance Operating Fund (Fund 5540) to the General Revenue Fund.

Sec. 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES

General Revenue Fund				
GRF 600321	Program Support ~~Services~~			
	State	$ 34,801,760	$ ~~31,932,117~~ 31,612,796	
	Federal	$ 9,322,222	$ ~~9,207,441~~ 9,115,366	

	Program Support Services Total	$	44,123,982	$ ~~41,139,558~~ 40,728,162	78936
GRF 600410	TANF State/Maintenance of Effort	$	151,386,934	$ 151,386,934	78937
GRF 600413	Child Care ~~Match~~ State/Maintenance of Effort	$	84,732,730	$ 84,732,730	78938
GRF 600416	~~Computer~~ Information Technology Projects				78939
	State	$	67,955,340	$ ~~69,263,506~~ 68,570,871	78940
	Federal	$	13,105,167	$ ~~12,937,222~~ 12,807,850	78941
	~~Computer~~ Information Technology Projects Total	$	81,060,507	$ ~~82,200,728~~ 81,378,721	78942
GRF 600417	Medicaid Provider Audits	$	1,312,992	$ ~~1,312,992~~ 1,299,862	78943
GRF 600420	Child Support ~~Administration~~ Programs	$	6,163,534	$ ~~6,065,588~~ 6,004,932	78944
GRF 600421	~~Office of~~ Family ~~Stability~~ Assistance Programs	$	3,768,929	$ ~~3,757,493~~ 3,719,918	78945
GRF 600423	~~Office of Children and~~ Families and Children Programs	$	5,123,406	$ 4,978,756	78946
GRF 600425	~~Office of Ohio~~ Health ~~Plans~~ Care Programs				78947
	State	$	13,149,582	$ ~~15,740,987~~ 15,583,577	78948
	Federal	$	12,556,921	$ ~~12,286,234~~ 12,163,372	78949
	~~Office of Ohio~~ Health	$	25,706,503	$ ~~28,027,221~~	78950

	~~Plans~~ Care Programs		27,746,949	
	Total			
GRF 600502	~~Administration~~ Child Support - Local	$ 23,814,103	$ 23,814,103	78951
GRF 600511	Disability Financial Assistance	$ 26,599,666	$ 27,108,734	78952
GRF 600521	~~Entitlement Administration~~ Family Assistance - Local	$ 72,200,721	$ 72,200,721	78953
GRF 600523	Family and Children ~~and Families~~ Services	$ ~~53,605,323~~ 52,605,323	$ ~~53,105,323~~ 54,105,323	78954
GRF 600525	Health Care/Medicaid			78955
	State	$ 4,313,761,372	$ ~~4,689,051,017~~ 4,689,701,017	78956
	Federal	$ 7,530,008,024	$ ~~8,429,762,527~~ 8,430,897,261	78957
	Health Care Total	$11,843,769,396	$~~13,118,813,544~~ 13,120,598,278	78958
GRF 600526	Medicare Part D	$ 277,996,490	$ 296,964,743	78959
GRF 600528	Adoption Services			78960
	State	$ 29,257,932	$ 29,257,932	78961
	Federal	$ 41,085,169	$ 41,085,169	78962
	Adoption Services Total	$ 70,343,101	$ 70,343,101	78963
GRF 600533	Child, Family, and Adult Community & Protective Services	$ 13,500,000	$ 13,500,000	78964
GRF 600534	Adult Protective Services	$ 366,003	$ 366,003	78965
GRF 600535	Early Care and Education	$ 123,596,474	$ 123,596,474	78966
GRF 600537	Children's Hospital	$ 6,000,000	$ 6,000,000	78967
GRF 600540	Second Harvest Food Banks	$ 4,000,000	$ 4,000,000	78968

GRF	600541	Kinship Permanency Incentive Program	$ 2,500,000	$ 3,500,000	78969
TOTAL GRF General Revenue Fund					78970
		State	$ ~~5,315,593,291~~ 5,314,593,291	$ ~~5,711,636,153~~ 5,712,005,426	78971
		Federal	$ 7,606,077,503	$ ~~8,505,278,593~~ 8,506,069,018	78972
		GRF Total	$~~12,921,670,794~~ 12,920,670,794	$~~14,216,914,746~~ 14,218,074,444	78973
General Services Fund Group					78974
4A80	600658	Public Assistance Activities	$ 34,000,000	$ 34,000,000	78975
5C90	600671	Medicaid Program Support	$ 85,800,878	$ ~~82,839,266~~ 0	78976
5DL0	600639	~~Medicaid Revenue and Collections~~ Health Care/Medicaid Support - Recoveries	$ 89,256,974	$ ~~84,156,974~~ 166,996,240	78977
5DM0	600633	Administration & Operating	$ 20,392,173	$ ~~19,858,928~~ 19,660,339	78978
5FX0	600638	Medicaid Payment Withholding	$ 5,000,000	$ 6,000,000	78979
5HL0	600602	State and County Shared services	$ 3,020,000	$ 3,020,000	78980
5P50	600692	~~Prescription Drug Rebate - State~~ Health Care/Medicaid Support - Drug Rebates	$ 220,600,000	$ 242,600,000	78981
6130	600645	Training Activities	$ 500,000	$ 500,000	78982
TOTAL GSF General Services Fund Group			$ 458,570,025	$ ~~472,975,168~~ 472,776,579	78983 78984
Federal Special Revenue Fund Group					78985

3270	600606	Child Welfare	$ 29,769,865	$ 29,769,866	78986
3310	600615	Veterans Programs	$ 0	$ 8,000,000	78987
3310	600624	Employment Services Programs	$ 0	$ 33,943,023	78988
3310	600686	~~Federal Operating~~ Workforce Programs	$ 49,128,140	$ ~~48,203,023~~ 6,260,000	78989
3840	600610	Food Assistance ~~and State Administration~~ Programs	$ 180,381,394	$ 180,381,394	78990
3850	600614	Refugee Services	$ 11,582,440	$ 12,564,952	78991
3950	600616	~~Special Activities/Child and Family Services~~ Federal Discretionary Grants	$ 2,259,264	$ 2,259,264	78992
3960	600620	Social Services Block Grant	$ 64,999,999	$ 64,999,998	78993
3970	600626	Child Support - Federal	$ 255,812,837	$ 255,813,528	78994
3980	600627	Adoption ~~Maintenance/ Administration~~ Program - Federal	$ 352,183,862	$ ~~352,184,253~~ 174,178,779	78995
3A20	600641	Emergency Food Distribution	$ 5,000,000	$ 5,000,000	78996
3AW0	600675	Faith Based Initiatives	$ 544,140	$ 544,140	78997
3D30	600648	Children's Trust Fund Federal	$ 2,040,524	$ 2,040,524	78998
3ER0	600603	Health Information Technology	$ 411,661,286	$ 416,395,286	78999
3F00	600623	Health Care Federal	$ 2,637,061,505	$ 2,720,724,869	79000
3F00	600650	Hospital Care Assurance ~~Match~~ -	$ 372,784,046	$ 380,645,627	79001

		Federal			
3FA0	600680	~~Ohio~~ Health Care Grants - Federal	$ 9,405,000	$ 20,000,000	79002
3G50	600655	Interagency Reimbursement	$ 1,621,305,787	$ 1,380,391,478	79003
3H70	600617	Child Care Federal	$ 208,290,036	$ 204,813,731	79004
3N00	600628	~~IV-E~~ Foster Care ~~Maintenance~~ Program - Federal	$ 133,963,142	$ ~~133,963,142~~ 311,968,616	79005
3S50	600622	Child Support Projects	$ 534,050	$ 534,050	79006
3V00	600688	Workforce Investment Act Programs	$ 176,496,250	$ 172,805,562	79007
3V40	600678	Federal Unemployment Programs	$ 188,680,096	$ 186,723,415	79008
3V40	600679	~~Unemployment Compensation~~ UC Review Commission - Federal	$ 4,166,988	$ 4,068,758	79009
3V60	600689	TANF Block Grant	$ 727,968,260	$ 727,968,260	79010
TOTAL FED Federal Special Revenue Fund Group			$ 7,446,018,911	$ 7,302,795,120	79011 79012
State Special Revenue Fund Group					79013
1980	600647	Children's Trust Fund	$ 5,873,637	$ 5,873,848	79014
4A90	600607	Unemployment Compensation Administration Fund	$ 21,924,998	$ 21,424,998	79015
4A90	600694	~~Unemployment Compensation~~ UC Review Commission - SAF	$ 2,173,167	$ 2,117,031	79016
4E30	600605	~~Nursing Home Assessments~~ Resident Protection Fund	$ 2,878,320	$ 2,878,319	79017
4E70	600604	~~Child and~~ Family and Children Services	$ 400,000	$ 400,000	79018

		Collections			
4F10	600609	Family and Children ~~and Family Services~~ Activities	$ 683,359	$ 683,549	79019
4K10	600621	~~ICF/MR Bed Assessments~~ DDD Support - Franchise Fee	$ 41,405,596	$ 44,372,874	79020
4Z10	600625	HealthCare Compliance	$ 11,551,076	$ 14,582,000	79021
5AJ0	600631	Money Follows the Person	$ 5,483,080	$ 4,733,080	79022
5DB0	600637	Military Injury ~~Grants~~ Relief Subsidies	$ 2,000,000	$ 2,000,000	79023
5DP0	600634	Adoption Assistance Loan	$ 500,000	$ 500,000	79024
5ES0	600630	Food Bank Assistance	$ 500,000	$ 500,000	79025
5GF0	600656	~~Medicaid~~ Health Care/Medicaid Support - Hospital/UPL	$ 436,000,000	$ 436,000,000	79026
5KC0	600682	Health Care ~~Special Activities~~ Grants - State	$ 10,000,000	$ 10,000,000	79027
5KU0	600611	Unemployment Compensation Support - Other Sources	$ 2,000,000	$ 4,000,000	79028
5R20	600608	~~Medicaid-Nursing Facilities~~ Long-Term Care Support	$ 402,489,308	$ 407,100,746	79029
5S30	600629	~~MR/DD Medicaid Administration~~ Health Care Program and ~~Oversight~~ DDD Support	$ 9,252,738	$ 9,147,791	79030
5U30	600654	Health Care ~~Services Administration~~ Program	$ 24,400,000	~~24,400,000~~ 24,156,000	79031

		Support			
5U60	600663	~~Children~~ Family and ~~Family~~ Children Support	$ 4,000,000	$ 4,000,000	79032
6510	600649	Hospital Care Assurance Program Fund	$ 212,526,123	$ 217,008,050	79033
TOTAL SSR State Special Revenue Fund Group			$ ~~1,194,041,402~~ 1,196,041,402	$ ~~1,207,722,286~~ 1,211,478,286	79034 79035
Agency Fund Group					79036
1920	600646	Child Support Intercept - Federal	$ 130,000,000	$ ~~130,000,000~~ 129,250,000	79037
5830	600642	Child Support Intercept - State	$ 16,000,000	$ ~~16,000,000~~ 14,000,000	79038
5B60	600601	Food Assistance Intercept	$ 2,000,000	$ ~~2,000,000~~ 1,000,000	79039
TOTAL AGY Agency Fund Group			$ 148,000,000	$ ~~148,000,000~~ 144,250,000	79040
Holding Account Redistribution Fund Group					79041
R012	600643	Refunds and Audit Settlements	$ 2,200,000	$ 2,200,000	79042
R013	600644	Forgery Collections	$ 10,000	$ 10,000	79043
TOTAL 090 Holding Account Redistribution Fund Group			$ 2,210,000	$ 2,210,000	79044
TOTAL ALL BUDGET FUND GROUPS			$ ~~22,170,511,132~~ 22,171,511,132	$ ~~23,350,617,320~~ 23,351,584,429	79045

Sec. 309.30.10. HEALTH CARE/MEDICAID 79047

The foregoing appropriation item 600525, Health Care/Medicaid, shall not be limited by section 131.33 of the Revised Code. 79048 79049 79050

HEALTH CARE/MEDICAID ENDING BALANCE 79051

Thirty million dollars of the unexpended and unencumbered portion of appropriation item 600525, Health Care/Medicaid, at the end of fiscal year 2012 is hereby reappropriated to the Department of Job and Family Services for payments to nursing facilities for fiscal year 2013 in accordance with the section of this act titled "FISCAL YEAR 2013 QUALITY BONUS PAYMENTS TO NURSING FACILITIES."

Sec. 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES

(A) As used in this section, "charge high trim point" means a measure, excluding the measure established by paragraph (A)(6) of rule 5101:3-2-07.9 of the Administrative Code, used to determine whether a claim for a hospital inpatient service qualifies for a cost outlier payment under the Medicaid program.

(B) For fiscal year 2012 and fiscal year 2013, the Director of Job and Family Services shall implement purchasing strategies and rate reductions for hospital and other Medicaid-covered services, as determined by the Director, that result in payment rates for those services being at least two per cent less than the respective payment rates for fiscal year 2011. In implementing the purchasing strategies and rate reductions, the Director shall do the following:

(1) Notwithstanding the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES," modernize hospital inpatient and outpatient reimbursement methodologies by doing the following:

(a) Modifying the inpatient hospital capital reimbursement methodology;

(b) Establishing new diagnosis-related groups in a cost-neutral manner;

(c) For hospital discharges that occur during the period

beginning October 1, 2011, and ending January 1, 2012, modifying charge high trim points, as in effect on January 1, 2011, by a factor of 13.6%;

(d) For hospital discharges that occur during the period beginning January 1, 2012, and ending on the effective date of the first of the new diagnosis-related groups established under division (B)(1)(b) of this section, modifying charge high trim points, as in effect on October 1, 2011, by a factor of 9.72%;

(e) Implementing other changes the Director considers appropriate.

(2) Establish selective contracting and prior authorization requirements for types of medical assistance the Director identifies.

(C) The Director shall adopt rules under ~~section~~ sections 5111.02 and 5111.85 of the Revised Code as necessary to implement this section. The rules adopted to implement divisions (B)(1)(a), (b), and (e) of this section shall include quality factors and quality-based incentive payments.

(D) This section does not apply to nursing facility and intermediate care facility for the mentally retarded services provided under the Medicaid program.

Sec. 309.30.33. HOSPITAL INPATIENT AND OUTPATIENT SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE HOSPITAL INCENTIVE PAYMENT PROGRAM

(A) As used in this section:

(1) "Hospital" has the same meaning as in section 5112.40 of the Revised Code.

(2) "Hospital Assessment Fund" means the fund created under section 5112.45 of the Revised Code.

(3) "Medicaid managed care organization" means an entity under contract pursuant to section 5111.17 of the Revised Code to provide or arrange services for Medicaid recipients who are required or permitted to participate in the Medicaid care management system.

(B) The Department of Job and Family Services shall submit to the United States Secretary of Health and Human Services a Medicaid state plan amendment to do both of the following:

(1) Continue the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program that was established pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th General Assembly, with any modifications necessary to implement the program as described under division (D) of this section;

(2) Create the Medicaid Managed Care Hospital Incentive Payment Program, as described under division (E) of this section.

(C) Of the amounts deposited into the Hospital Assessment Fund in fiscal year 2012 and fiscal year 2013:

(1) Up to $432,432,725 (state and federal) in fiscal year 2012 and up to $415,162,388 (state and federal) in fiscal year 2013 shall be used for the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program;

(2) Up to $162,000,000 (state and federal) in each fiscal year shall be used for the Medicaid Managed Care Hospital Incentive Payment Program;

(3) Up to $176,021,111 (state and federal) in fiscal year 2012 and up to $195,158,394 (state and federal) in fiscal year 2013 shall be used for the program authorized by the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES."

(D)(1) If the Medicaid state plan amendment submitted under division (B)(1) of this section is approved, the Department shall implement the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program during fiscal year 2012 and fiscal year 2013. Under the Program, subject to division (D)(2) of this section, supplemental Medicaid payments shall be made to hospitals for Medicaid-covered inpatient and outpatient services. The Department shall make the payments through amounts that are made available for the Program under division (C) of this section and any federal financial participation available for the Program.

(2) The Department shall take all actions necessary to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5112.41 of the Revised Code is an impermissible healthcare-related tax under section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C. 1396b(w), as amended.

(E)(1) If the Medicaid state plan amendment submitted under division (B)(2) of this section is approved, the Department shall implement the Medicaid Managed Care Hospital Incentive Payment Program. The purpose of the Program is to increase access to hospital services for Medicaid recipients who are enrolled in Medicaid managed care organizations.

Under the Program, subject to division (E)(3) of this section, funds shall be provided to Medicaid managed care organizations, which shall use the funds to increase payments to hospitals for providing services to Medicaid recipients who are enrolled in the organizations. The Department shall provide the funds through amounts that are made available for the Program under division (C) of this section and any federal financial participation available for the Program.

(2) Not later than July 1, 2012, the Department shall select an actuary to conduct a study of the contracted reimbursement

rates between Medicaid managed care organizations and hospitals. The actuary shall determine if a reduction in the capitation rates paid to Medicaid managed care organizations in fiscal year 2013 is appropriate as a result of the contracted reimbursement rates between the organizations and hospitals. The actuary shall notify the Department of its determination.

If the actuary determines that a reduction in the capitation rates paid to Medicaid managed care organizations in fiscal year 2013 will not achieve $22 million in state savings in fiscal year 2013, the state shall receive the difference between what the actuary determines the state will save and $22 million. The Department, in consultation with the Ohio Association of Health Plans and the Ohio Hospital Association, shall establish a methodology under which the difference is paid equally by Medicaid managed care organizations and hospitals in this state.

Notwithstanding anything to the contrary specified in division (E)(3)(b) or (c) of this section, the Medicaid managed care organizations and hospitals shall pay the amounts determined under the methodology, unless the Department waives the requirement to make the payments. The requirement may be waived if spending for the Medicaid program in fiscal year 2013 is less than the amount that is budgeted for that fiscal year. If payments are made, the amount received by the Department shall be deposited into the state treasury to the credit of the Health Care Compliance Fund created under section ~~5111.171~~ 5111.946 of the Revised Code.

(3)(a) The Department shall not provide funds to Medicaid managed care organizations under the Program unless an actuary selected by the Department certifies that the Program would not violate the actuarial soundness of the capitation rates paid to Medicaid managed care organizations.

(b) The Department shall not implement the Program in a

manner that causes a hospital to receive less money from the Hospital Assessment Fund than the hospital would have received if the Program were not implemented.

(c) The Department shall not implement the Program in a manner that causes a Medicaid managed care organization to receive a lower capitation payment rate solely because funds are made available to the organization under the Program.

(d) The Department shall take all necessary actions to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5112.41 of the Revised Code is an impermissible healthcare-related tax under section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C. 1396b(w), as amended.

(F) The Director of Budget and Management may authorize additional expenditures from appropriation item 600623, Health Care Federal, appropriation item 600525, Health Care/Medicaid, and appropriation item 600656, Medicaid-Hospital, in order to implement the programs authorized by this section and to implement the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES." Any amounts authorized are hereby appropriated.

(G) Nothing in this section reduces payments to children's hospitals authorized under the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled "CHILDREN'S HOSPITALS SUPPLEMENTAL FUNDING."

Sec. 309.30.53. MEDICAID MANAGED CARE EXEMPTIONS

(A) As used in this section, "disabled individual" means any individual receiving services through the program for medically handicapped children established under section 3701.023 of the

Revised Code who has one or more of the following conditions:

(1) Cystic fibrosis;

(2) Hemophilia;

(3) Cancer.

(B) Notwithstanding section 5111.16 of the Revised Code, as amended by ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly, the Department of Job and Family Services shall not include in the care management system established under that section ~~in either fiscal year 2012 or fiscal year 2013 any individual receiving services through the program for medically handicapped children established under section 3701.023 of the Revised Code who has one or more of the following conditions and who was not receiving services through the care management system immediately before the effective date of this section:~~

~~(1) Cystic fibrosis;~~

~~(2) Hemophilia;~~

~~(3) Cancer~~ any disabled individual who was not receiving services through the care management system immediately before June 30, 2011, until the later of the following:

(1) January 1, 2014;

(2) One year after the date that the Department first designates any individual who receives Medicaid on the basis of being aged, blind, or disabled who is under twenty-one years of age as an individual who is permitted or required to participate in the care management system.

Sec. 309.30.73. JOINT LEGISLATIVE COMMITTEE FOR UNIFIED LONG-TERM SERVICES AND SUPPORTS

(A) There is hereby created the Joint Legislative Committee for Unified Long-Term Services and Supports. The Committee shall

consist of the following members:

(1) Two members of the House of Representatives from the majority party, appointed by the Speaker of the House of Representatives;

(2) One member of the House of Representatives from the minority party, appointed by the Speaker of the House of Representatives;

(3) Two members of the Senate from the majority party, appointed by the President of the Senate;

(4) One member of the Senate from the minority party, appointed by the President of the Senate.

(B) The Speaker of the House of Representatives shall designate one of the members of the Committee appointed under division (A)(1) of this section to serve as co-chairperson of the Committee. The President of the Senate shall designate one of the members of the Committee appointed under division (A)(3) of this section to serve as the other co-chairperson of the Committee. The Committee shall meet at the call of the co-chairpersons. The co-chairpersons may request assistance for the Committee from the Legislative Service Commission.

(C) The Committee may examine the following issues:

(1) The implementation of the dual eligible integrated care demonstration project authorized by section 5111.981 of the Revised Code;

(2) The implementation of a unified long-term services and support Medicaid waiver component under section 5111.864 of the Revised Code;

(3) Providing consumers choices regarding a continuum of services that meet their health-care needs, promote autonomy and independence, and improve quality of life;

(4) Ensuring that long-term care services and supports are delivered in a cost-effective and quality manner;

(5) Subjecting county homes, county nursing homes, and district homes operated pursuant to Chapter 5155. of the Revised Code to the franchise permit fee under sections 3721.50 to 3721.58 of the Revised Code;

(6) Other issues of interest to the committee.

(D) The co-chairpersons of the Committee shall provide for the Medical Assistance Director ~~of the Office of Ohio Health Plans in the Department of Job and Family Services~~ to testify before the Committee not later than September 30, 2011, and at least quarterly thereafter regarding the issues that the Committee examines.

Sec. 309.35.73. HEALTHCARE COMPLIANCE APPROPRIATION

Notwithstanding the provisions of section ~~5111.171~~ 5111.946 of the Revised Code specifying the uses of the ~~HealthCare~~ Health Care Compliance Fund, appropriations in appropriation item 600625, HealthCare Compliance, may be used for expenses incurred in implementation or operation of Health Home programs, contracts for consultants regarding Medicaid, and for the creation, modification, or replacement of any federally funded Medicaid healthcare systems in fiscal year 2012 and fiscal year 2013.

Sec. 313.10. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund				
GRF	018321	Operating Expenses	$ ~~720,000~~ 801,000	$ ~~720,000~~ 801,700
TOTAL GRF General Revenue Fund			$ ~~720,000~~ 801,000	$ ~~720,000~~ 801,700
General Services Fund Group				

4030	018601	Ohio Jury Instructions	$ 350,000	$ 350,000	79321
TOTAL GSF Group		General Services Fund	$ 350,000	$ 350,000	79322
TOTAL ALL BUDGET FUND GROUPS			$ ~~1,070,000~~ 1,151,000	$ ~~1,070,000~~ 1,151,700	79323

STATE COUNCIL OF UNIFORM STATE LAWS 79324

Notwithstanding section 105.26 of the Revised Code, of the foregoing appropriation item 018321, Operating Expenses, up to $81,000 in fiscal year 2012 and up to $81,700 in fiscal year 2013 shall be used to pay the expenses of the State Council of Uniform State Laws, including membership dues to the National Conference of Commissioners on Uniform State Laws. 79325 79326 79327 79328 79329 79330

OHIO JURY INSTRUCTIONS FUND 79331

The Ohio Jury Instructions Fund (Fund 4030) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in its activities as a part of the judicial system of the state as determined by the Judicial Conference Executive Committee. Fund 4030 shall be used by the Judicial Conference of Ohio to pay expenses incurred in its activities as a part of the judicial system of the state as determined by the Judicial Conference Executive Committee. All moneys accruing to Fund 4030 in excess of $350,000 in fiscal year 2012 and in excess of $350,000 in fiscal year 2013 are hereby appropriated for the purposes authorized. 79332 79333 79334 79335 79336 79337 79338 79339 79340 79341 79342 79343

No money in Fund 4030 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. 79344 79345

Sec. 315.10. JSC THE JUDICIARY/SUPREME COURT 79346

General Revenue Fund 79347

GRF	005321	Operating Expenses - Judiciary/Supreme Court	~~$ 133,704,620~~ <u>132,347,507</u>	~~$ 132,565,410~~ <u>133,922,523</u>	79348
GRF	005406	Law-Related Education	$ 236,172	$ 236,172	79349
GRF	005409	Ohio Courts Technology Initiative	$ 2,150,000	$ 2,150,000	79350
TOTAL GRF General Revenue Fund			~~$ 136,090,792~~ <u>134,733,679</u>	~~$ 134,951,582~~ <u>136,308,695</u>	79351
General Services Fund Group					79352
6720	005601	Continuing Judicial Education	$ 172,142	$ 169,420	79353
TOTAL GSF General Services Fund Group			$ 172,142	$ 169,420	79354
Federal Special Revenue Fund Group					79355
3J00	005603	Federal Grants	$ 1,653,317	$ 1,605,717	79356
TOTAL FED Federal Special Revenue Fund Group			$ 1,653,317	$ 1,605,717	79357
State Special Revenue Fund Group					79358
4C80	005605	Attorney Services	$ 3,718,328	$ 3,695,192	79359
5HT0	005617	Court Interpreter Certification	$ 39,000	$ 39,000	79360
5T80	005609	Grants and Awards	$ 50,000	$ 50,000	79361
6A80	005606	Supreme Court Admissions	$ 1,223,340	$ 1,205,056	79362
TOTAL SSR State Special Revenue Fund Group			$ 5,030,668	$ 4,989,248	79363
TOTAL ALL BUDGET FUND GROUPS			~~$ 142,946,919~~ <u>141,589,806</u>	~~$ 141,715,967~~ <u>143,073,080</u>	79364

OPERATING EXPENSES - JUDICIARY/SUPREME COURT 79365

Of the foregoing appropriation item 005321, Operating 79366
Expenses - Judiciary/Supreme Court, up to $206,770 in each fiscal 79367
year may be used to support the functions of the State Criminal 79368

Sentencing Council.

LAW-RELATED EDUCATION

The foregoing appropriation item 005406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.

OHIO COURTS TECHNOLOGY INITIATIVE

The foregoing appropriation item 005409, Ohio Courts Technology Initiative, shall be used to fund an initiative by the Supreme Court to facilitate the exchange of information and warehousing of data by and between Ohio courts and other justice system partners through the creation of an Ohio Courts Network, the delivery of technology services to courts throughout the state, including the provision of hardware, software, and the development and implementation of educational and training programs for judges and court personnel, and operation of the Commission on Technology and the Courts by the Supreme Court for the promulgation of statewide rules, policies, and uniform standards, and to aid in the orderly adoption and comprehensive use of technology in Ohio courts.

CONTINUING JUDICIAL EDUCATION

The Continuing Judicial Education Fund (Fund 6720) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative

Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 6720 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 6720 shall be credited to the fund.

FEDERAL GRANTS

The Federal Grants Fund (Fund 3J00) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the United States Government or other entities that receive the moneys directly from the United States Government and distribute those moneys to the Supreme Court (The Judiciary). The foregoing appropriation item 005603, Federal Grants, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 3J00 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on money in Fund 3J00 shall be credited or transferred to the General Revenue Fund.

ATTORNEY SERVICES

The Attorney Services Fund (Fund 4C80), formerly known as the Attorney Registration Fund, shall consist of money received by the Supreme Court (The Judiciary) pursuant to the Rules for the Government of the Bar of Ohio. In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 005605, Attorney Services, may be used to compensate employees and to fund appropriate activities of the following offices established by the Supreme Court: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances

and Discipline, the Clients' Security Fund, and the Attorney Services Division. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 4C80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 4C80 shall be credited to the fund.

COURT INTERPRETER CERTIFICATION

The Court Interpreter Certification Fund (Fund 5HT0) shall consist of money received by the Supreme Court (The Judiciary) pursuant to Rules 80 through 87 of the Rules of Superintendence for the Courts of Ohio. The foregoing appropriation item 005617, Court Interpreter Certification, shall be used to provide training, to provide the written examination, and to pay language experts to rate, or grade, the oral examinations of those applying to become certified court interpreters. If it is determined by the Administrative Director that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 5HT0 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 5HT0 shall be credited to the fund.

GRANTS AND AWARDS

The Grants and Awards Fund (Fund 5T80) shall consist of grants and other money awarded to the Supreme Court (The Judiciary) by the State Justice Institute, the Division of Criminal Justice Services, or other entities. The foregoing appropriation item 005609, Grants and Awards, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court

that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 5T80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on money in Fund 5T80 shall be credited or transferred to the General Revenue Fund.

SUPREME COURT ADMISSIONS

The foregoing appropriation item 005606, Supreme Court Admissions, shall be used to compensate Supreme Court employees who are primarily responsible for administering the attorney admissions program under the Rules for the Government of the Bar of Ohio, and to fund any other activities considered appropriate by the court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A80) under the Supreme Court Rules for the Government of the Bar of Ohio. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 6A80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 6A80 shall be credited to the fund.

Sec. 323.10. LSC LEGISLATIVE SERVICE COMMISSION

General Revenue Fund

GRF	035321	Operating Expenses	$ 15,117,700	$ 15,117,700
GRF	035402	Legislative Fellows	$ 1,022,120	$ 1,022,120
GRF	035405	Correctional Institution Inspection Committee	$ 438,900	$ 438,900
GRF	035407	Legislative Task Force on Redistricting	$ 590,000	$ 750,000

GRF	035409	National Associations	$ 460,560	$ 460,560	79489
GRF	035410	Legislative Information Systems	$ 3,661,250	$ ~~3,661,250~~ 3,861,250	79490
GRF	035411	Ohio Constitutional Modernization Commission	$ 50,000	$ 50,000	79491
TOTAL GRF General Revenue Fund			$ 21,340,530	$ ~~21,500,530~~ 21,700,530	79492
General Services Fund Group					79493
4100	035601	Sale of Publications	$ 10,000	$ 10,000	79494
4F60	035603	Legislative Budget Services	$ 200,000	$ 200,000	79495
5EF0	035607	Legislative Agency Telephone Usage	$ 30,000	$ 30,000	79496
TOTAL GSF General Services Fund Group			$ 240,000	$ 240,000	79497 79498
TOTAL ALL BUDGET FUND GROUPS			$ 21,580,530	$ ~~21,740,530~~ 21,940,530	79499

OPERATING EXPENSES 79500

On July 1, 2011, or as soon as possible thereafter, the 79501
Director of the Legislative Service Commission may certify to the 79502
Director of Budget and Management the amount of the unexpended, 79503
unencumbered balance of the foregoing appropriation item 035321, 79504
Operating Expenses, at the end of fiscal year 2011 to be 79505
reappropriated to fiscal year 2012. The amount certified is hereby 79506
reappropriated to the same appropriation item for fiscal year 79507
2012. 79508

On July 1, 2012, or as soon as possible thereafter, the 79509
Director of the Legislative Service Commission may certify to the 79510
Director of Budget and Management the amount of the unexpended, 79511
unencumbered balance of the foregoing appropriation item 035321, 79512
Operating Expenses, at the end of fiscal year 2012 to be 79513

reappropriated to fiscal year 2013. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2013.

LEGISLATIVE TASK FORCE ON REDISTRICTING

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 035407, Legislative Task Force on Redistricting, at the end of fiscal year 2011 is hereby reappropriated to the Legislative Service Commission for the same purpose for fiscal year 2012.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 035407, Legislative Task Force on Redistricting, at the end of fiscal year 2012 is hereby reappropriated to the Legislative Service Commission for the same purpose for fiscal year 2013.

LEGISLATIVE INFORMATION SYSTEMS

On July 1, 2011, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035410, Legislative Information Systems, at the end of fiscal year 2011 to be reappropriated to fiscal year 2012. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2012.

On July 1, 2012, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035410, Legislative Information Systems, at the end of fiscal year 2012 to be reappropriated to fiscal year 2013. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2013.

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

The foregoing appropriation item 035411, Ohio Constitutional Modernization Commission, shall be used to support the operation and expenses of the Ohio Constitutional Modernization Commission under sections 103.61 to 103.67 of the Revised Code.

Sec. 327.10. LCO LIQUOR CONTROL COMMISSION

State Special Revenue Fund Group					
5LP0	970601	Commission Operating Expense	$ 0	$ 754,146	
TOTAL SSR State Special Revenue Fund Group			$ 0	$ 754,146	
Liquor Control Fund Group					
7043	970321	Operating Expenses	$ 753,933	$ ~~754,146~~ 0	
TOTAL LCF Liquor Control Fund Group			$ 753,933	$ ~~754,146~~ 0	
TOTAL ALL BUDGET FUND GROUPS			$ 753,933	$ 754,146	

Sec. 335.10. AMB OHIO MEDICAL TRANSPORTATION BOARD

General Services Fund Group					
4K90	915604	Operating Expenses	$ 493,641	$ ~~493,856~~ 0	
TOTAL GSF General Services Fund Group			$ 493,641	$ ~~493,856~~ 0	
TOTAL ALL BUDGET FUND GROUPS			$ 493,641	$ ~~493,856~~ 0	

Sec. 337.10. DMH DEPARTMENT OF MENTAL HEALTH

General Revenue Fund					
GRF	332401	Forensic Services	$ 3,244,251	$ 3,244,251	
GRF	333321	Central Administration	$ 16,000,000	$ 16,000,000	
GRF	333402	Resident Trainees	$ 450,000	$ 450,000	
GRF	333403	Pre-Admission	$ 486,119	$ ~~486,119~~	

		Screening Expenses		286,119	
GRF	333415	Lease-Rental Payments	$ 18,394,250	$ ~~19,907,900~~ 17,907,900	79572
GRF	333416	Research Program Evaluation	$ 421,724	$ 421,998	79573
GRF	334412	Hospital Services	$ 194,918,888	$ ~~192,051,209~~ 191,051,209	79574
GRF	334506	Court Costs	$ 584,210	$ 584,210	79575
GRF	335405	Family & Children First	$ 1,386,000	$ 1,386,000	79576
GRF	335419	Community Medication Subsidy	$ 8,963,818	$ 8,963,818	79577
GRF	335501	Mental Health Medicaid Match	$ 186,400,000	$ 0	79578
GRF	335505	Local Mental Health Systems of Care	$ 49,963,776	$ ~~59,087,955~~ 62,087,955	79579
GRF	335506	Residential State Supplement	$ 4,702,875	$ 4,702,875	79580
TOTAL GRF General Revenue Fund			$ 485,915,911	$ ~~307,286,335~~ 307,086,335	79581
General Services Fund Group					79582
1490	333609	Central Office Operating	$ 1,343,190	$ 1,343,190	79583
1490	334609	Hospital - Operating Expenses	$ 28,190,000	$ 28,190,000	79584
1500	334620	Special Education	$ 150,000	$ 150,000	79585
4P90	335604	Community Mental Health Projects	$ 4,061,100	$ 250,000	79586
1510	336601	Office of Support Services	$ 129,770,770	$ ~~129,779,822~~ 127,297,130	79587
TOTAL GSF General Services Fund Group			$ 163,515,060	$ ~~159,713,012~~ 157,230,320	79588
Federal Special Revenue Fund Group					79589

3240	333605	Medicaid/Medicare	$ 154,500	$ 154,500	79590
3A60	333608	Federal Miscellaneous	$ 140,000	$ 140,000	79591
3A70	333612	Social Services Block Grant	$ 50,000	$ 50,000	79592
3A80	333613	Federal Grant - Administration	$ 4,717,000	$ 4,717,000	79593
3A90	333614	Mental Health Block Grant - Administration	$ 748,470	$ 748,470	79594
3B10	333635	Community Medicaid Expansion	$ 13,691,682	$ 13,691,682	79595
3240	334605	Medicaid/Medicare	$ 28,200,000	$ 28,200,000	79596
3A60	334608	Federal Miscellaneous	$ 200,000	$ 200,000	79597
3A80	334613	Federal Letter of Credit	$ 200,000	$ 200,000	79598
3A60	335608	Federal Miscellaneous	$ 2,170,000	$ 2,170,000	79599
3A70	335612	Social Services Block Grant	$ 8,400,000	$ 8,400,000	79600
3A80	335613	Federal Grant - Community Mental Health Board Subsidy	$ 2,500,000	$ 2,500,000	79601
3A90	335614	Mental Health Block Grant	$ 14,200,000	$ 14,200,000	79602
3B10	335635	Community Medicaid Expansion	$ 346,200,000	$ 0	79603
TOTAL FED Federal Special Revenue Fund Group			$ 421,571,652	$ 75,371,652	79604
State Special Revenue Fund Group					79605
2320	333621	Family and Children First Administration	$ 448,286	$ 432,197	79606
4850	333632	Mental Health Operating	$ 134,233	$ 134,233	79607
4X50	333607	Behavioral Health	$ 3,000,624	$ 3,000,624	79608

		Medicaid Services			
5V20	333611	Non-Federal Miscellaneous	$ 100,000	$ 100,000	79609
4850	334632	Mental Health Operating	$ 2,477,500	$ 2,477,500	79610
5AU0	335615	Behavioral Healthcare	$ 6,690,000	$ 6,690,000	79611
6320	335616	Community Capital Replacement	$ 350,000	$ 350,000	79612
TOTAL SSR State Special Revenue Fund Group			$ 13,200,643	$ 13,184,554	79613
TOTAL ALL BUDGET FUND GROUPS			$ 1,084,203,266	$ ~~555,555,553~~ 552,872,861	79614

Sec. 343.10. DNR DEPARTMENT OF NATURAL RESOURCES 79616

General Revenue Fund					79617
GRF	725401	Wildlife-GRF Central Support	$ 1,800,000	$ 1,800,000	79618
GRF	725413	Lease Rental Payments	$ 20,568,600	$ 19,734,700	79619
GRF	725456	Canal Lands	$ 135,000	$ 135,000	79620
GRF	725502	Soil and Water Districts	$ 2,900,000	$ 2,900,000	79621
GRF	725505	Healthy Lake Erie Fund	$ 0	$ 3,350,000	79622
GRF	725903	Natural Resources General Obligation Debt Service	$ 5,375,300	$ 25,209,100	79623
GRF	727321	Division of Forestry	$ 4,878,338	$ 4,880,000	79624
GRF	729321	Office of Information Technology	$ 194,118	$ 197,117	79625
GRF	730321	Division of Parks and Recreation	$ 30,000,000	$ 30,000,000	79626
GRF	736321	Division of Engineering	$ 3,024,459	$ ~~3,025,078~~ 2,995,078	79627
GRF	737321	Division of Soil and	$ 4,982,961	$ 4,983,356	79628

		Water Resources			
GRF	741321	Division of Natural Areas and Preserves	$ 1,200,000	$ 1,200,000	79629
TOTAL GRF General Revenue Fund			$ 75,058,776	$ ~~94,064,351~~ 97,384,351	79630
General Services Fund Group					79631
1550	725601	Departmental Projects	$ 3,365,651	$ ~~2,725,484~~ 2,512,977	79632
1570	725651	Central Support Indirect	$ 5,854,167	$ 5,857,800	79633
2040	725687	Information Services	$ 4,659,276	$ 4,643,835	79634
2070	725690	Real Estate Services	$ 50,000	$ 50,000	79635
2230	725665	Law Enforcement Administration	$ 2,106,776	$ 2,126,432	79636
2270	725406	Parks Projects Personnel	$ 436,500	$ 436,500	79637
4300	725671	Canal Lands	$ 907,618	$ ~~907,879~~ 883,879	79638
4D50	725618	Recycled Materials	$ 50,000	$ ~~50,000~~ 0	79639
4S90	725622	NatureWorks Personnel	$ 400,358	$ 400,358	79640
4X80	725662	Water Resources Council	$ 138,011	$ 138,005	79641
5100	725631	Maintenance - State-owned Residences	$ 303,611	$ 303,611	79642
5160	725620	Water Management	$ 2,541,565	$ 2,559,292	79643
6350	725664	Fountain Square Facilities Management	$ 3,544,623	$ ~~3,548,445~~ 3,473,413	79644
6970	725670	Submerged Lands	$ 836,162	$ 848,546	79645
TOTAL GSF General Services Fund Group			$ 25,194,318	$ ~~24,596,187~~ 24,234,648	79646 79647
Federal Special Revenue Fund Group					79648

3320	725669	Federal Mine Safety Grant	$ 258,102	$ 258,102	79649
3B30	725640	Federal Forest Pass-Thru	$ 600,000	$ 600,000	79650
3B40	725641	Federal Flood Pass-Thru	$ 600,000	$ 600,000	79651
3B50	725645	Federal Abandoned Mine Lands	$ 21,007,667	$ 21,207,667	79652
3B60	725653	Federal Land and Water Conservation Grants	$ 1,150,000	$ 1,150,000	79653
3B70	725654	Reclamation - Regulatory	$ 3,200,000	$ 3,200,000	79654
3P10	725632	Geological Survey - Federal	$ 692,401	$ 692,401	79655
3P20	725642	Oil and Gas-Federal	$ 234,509	$ 234,509	79656
3P30	725650	Coastal Management - Federal	$ 3,290,633	$ 3,290,633	79657
3P40	725660	Federal - Soil and Water Resources	$ 1,213,048	$ 1,209,957	79658
3R50	725673	Acid Mine Drainage Abatement/Treatment	$ 2,025,001	$ 2,025,001	79659
3Z50	725657	Federal Recreation and Trails	$ 1,850,000	$ 1,850,000	79660
TOTAL FED Federal Special Revenue Fund Group			$ 36,121,361	$ 36,318,270	79661 79662
State Special Revenue Fund Group					79663
4J20	725628	Injection Well Review	$ 130,899	$ 128,466	79664
4M70	725686	Wildfire Suppression	$ 100,000	$ 100,000	79665
4U60	725668	Scenic Rivers Protection	$ 100,000	$ 100,000	79666
5090	725602	State Forest	$ 7,891,747	$ 7,058,793	79667
5110	725646	Ohio Geological	$ 704,777	$ 705,130	79668

		Mapping			
5120	725605	State Parks Operations	$ 32,284,117	$ 31,550,444	79669
5140	725606	Lake Erie Shoreline	$ 1,502,654	$ 1,505,983	79670
5180	725643	Oil and Gas Permit Fees	$ 5,821,970	$ ~~5,623,645~~ 9,823,645	79671
5180	725677	Oil and Gas Well Plugging	$ 800,000	$ 800,000	79672
5210	725627	Off-Road Vehicle Trails	$ 143,490	$ 143,490	79673
5220	725656	Natural Areas and Preserves	$ 546,580	$ 546,639	79674
5260	725610	Strip Mining Administration Fee	$ 2,000,000	$ 2,000,000	79675
5270	725637	Surface Mining Administration	$ 1,940,977	$ 1,941,532	79676
5290	725639	Unreclaimed Land Fund	$ 2,004,180	$ 2,004,180	79677
5310	725648	Reclamation Forfeiture	$ 1,423,000	$ ~~1,423,000~~ 500,000	79678
5320	725644	Litter Control and Recycling	$ 4,926,730	$ ~~4,911,575~~ 0	79679
5860	725633	Scrap Tire Program	$ 1,497,645	$ ~~1,497,645~~ 0	79680
5B30	725674	Mining Regulation	$ 28,135	$ 28,135	79681
5BV0	725658	Heidelberg Water Quality Lab	$ 250,000	$ 250,000	79682
5BV0	725683	Soil and Water Districts	$ 8,000,000	$ 8,000,000	79683
5CU0	725647	Mine Safety	$ 3,000,000	$ 3,000,000	79684
5EJ0	725608	Forestry Law Enforcement	$ 1,000	$ 1,000	79685
5EK0	725611	Natural Areas & Preserves Law Enforcement	$ 1,000	$ 1,000	79686
5EL0	725612	Wildlife Law	$ 12,000	$ 12,000	79687

		Enforcement			
5EM0	725613	Park Law Enforcement	$ 34,000	$ 34,000	79688
5EN0	725614	Watercraft Law Enforcement	$ 2,500	$ 2,500	79689
5HK0	725625	Ohio Nature Preserves	$ 1,000	$ 1,000	79690
6150	725661	Dam Safety	$ 925,344	$ 926,028	79691
TOTAL SSR State Special Revenue Fund Group			$ 76,073,745	$ ~~74,296,185~~ 71,163,965	79692 79693
Clean Ohio Conservation Fund Group					79694
7061	725405	Clean Ohio Operating	$ 300,775	$ 300,775	79695
TOTAL CLF Clean Ohio Conservation Fund Group			$ 300,775	$ 300,775	79696
Wildlife Fund Group					79697
5P20	725634	Wildlife Boater Angler Administration	$ 4,000,000	$ 4,000,000	79698
7015	740401	Division of Wildlife Conservation	$ 52,721,044	$ 51,669,158	79699
8150	725636	Cooperative Management Projects	$ 120,449	$ 120,449	79700
8160	725649	Wetlands Habitat	$ 966,885	$ 966,885	79701
8170	725655	Wildlife Conservation Checkoff Fund	$ 3,240,000	$ 3,240,000	79702
8180	725629	Cooperative Fisheries Research	$ 1,500,000	$ 1,500,000	79703
8190	725685	Ohio River Management	$ 128,584	$ 128,584	79704
TOTAL WLF Wildlife Fund Group			$ 62,676,962	$ 61,625,076	79705
Waterways Safety Fund Group					79706
7086	725414	Waterways Improvement	$ 5,692,601	$ 5,693,671	79707
7086	725418	Buoy Placement	$ 52,182	$ 52,182	79708
7086	725501	Waterway Safety Grants	$ 120,000	$ 120,000	79709

7086	725506	Watercraft Marine Patrol	$ 576,153	$ 576,153	79710
7086	725513	Watercraft Educational Grants	$ 366,643	$ 366,643	79711
7086	739401	Division of Watercraft	$ 18,040,593	$ 17,552,370	79712
TOTAL WSF Waterways Safety Fund Group			$ 24,848,172	$ 24,361,019	79713 79714
Accrued Leave Liability Fund Group					79715
4M80	725675	FOP Contract	$ 20,219	$ 20,219	79716
TOTAL ALF Accrued Leave Liability Fund Group			$ 20,219	$ 20,219	79717 79718
Holding Account Redistribution Fund Group					79719
R017	725659	Performance Cash Bond Refunds	$ 296,263	$ 296,263	79720
R043	725624	Forestry	$ 2,000,000	$ 2,154,750	79721
TOTAL 090 Holding Account Redistribution Fund Group			$ 2,296,263	$ 2,451,013	79722 79723
TOTAL ALL BUDGET FUND GROUPS			$ 302,590,591	$ ~~318,033,095~~ 317,859,336	79724

Sec. 343.40. LEASE RENTAL PAYMENTS 79726

The foregoing appropriation item 725413, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code. 79727 79728 79729 79730 79731 79732 79733 79734

CANAL LANDS 79735

The foregoing appropriation item 725456, Canal Lands, shall 79736

be used to transfer funds to the Canal Lands Fund (Fund 4300) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

HEALTHY LAKE ERIE FUND

Of the foregoing appropriation item 725505, Healthy Lake Erie Fund, up to $3,000,000 shall be used by the Director of Natural Resources, in consultation with the Director of Agriculture and the Director of Environmental Protection, to implement nonstatutory recommendations of the Agriculture Nutrients and Water Quality Working Group. The Director shall give priority to recommendations that encourage farmers to adopt agricultural production guidelines commonly known as 4R nutrient stewardship practices. Funds may also be used for enhanced soil testing in the Western Lake Erie Basin, monitoring the quality of Lake Erie and its tributaries, and conducting research and establishing pilot projects that have the goal of reducing algae blooms in Lake Erie.

Of the foregoing appropriation item 725505, Healthy Lake Erie Fund, up to $350,000 in fiscal year 2013 may be used by the Director of Natural Resources for monitoring inland lakes and stream water quality.

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2011, through June 30, 2013, on obligations issued under sections 151.01 and 151.05 of the Revised Code.

Sec. 365.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO

General Services Fund Group

5F60	870622	Utility and Railroad Regulation	$ 30,637,234	$ 31,638,708	79767
5F60	870624	NARUC/NRRI Subsidy	$ 158,000	$ ~~158,000~~ 100,000	79768
5F60	870625	Motor Transportation Regulation	$ 4,976,641	$ ~~5,971,218~~ 0	79769
5Q50	870626	Telecommunications Relay Service	$ 5,000,000	$ 5,000,000	79770
TOTAL GSF General Services Fund Group			$ 40,771,875	$ ~~42,767,926~~ 36,738,708	79771 79772
Federal Special Revenue Fund Group					79773
3330	870601	Gas Pipeline Safety	$ 597,959	$ 597,959	79774
3500	870608	Motor Carrier Safety	$ 7,351,660	$ 7,351,660	79775
3CU0	870627	Electric Market Modeling	$ 91,183	$ 0	79776
3EA0	870630	Energy Assurance Planning	$ 384,000	$ 384,000	79777
3ED0	870631	State Regulators Assistance	$ 231,824	$ 231,824	79778
3V30	870604	Commercial Vehicle Information Systems/Networks	$ 100,000	$ 100,000	79779
TOTAL FED Federal Special Revenue Fund Group			$ 8,756,626	$ 8,665,443	79780 79781
State Special Revenue Fund Group					79782
4A30	870614	Grade Crossing Protection Devices-State	$ 1,347,357	$ 1,347,357	79783
4L80	870617	Pipeline Safety-State	$ 181,992	$ 181,992	79784
4S60	870618	Hazardous Material Registration	$ 450,395	$ ~~450,395~~ 0	79785

4S60	870621	Hazardous Materials Base State Registration	$ 373,346	$ ~~373,346~~ 0		79786
4U80	870620	Civil Forfeitures	$ 277,347	$ ~~277,496~~ 0		79787
5590	870605	Public Utilities Territorial Administration	$ 3,880	$ ~~3,880~~ 0		79788
5600	870607	Special Assessment	$ 97,000	$ ~~97,000~~ 0		79789
5610	870606	Power Siting Board	$ 631,508	$ ~~631,618~~ 581,618		79790
5BP0	870623	Wireless 9-1-1 Administration	$ 36,440,000	$ ~~18,220,000~~ 17,757,250		79791
5HD0	870629	Radioactive Waste Transportation	$ 98,800	$ ~~98,800~~ 0		79792
5LT0	870640	Intrastate Registration	$ 0	$ 180,000		79793
5LT0	870641	Unified Carrier Registration	$ 0	$ 420,000		79794
5LT0	870642	Hazardous Materials Registration	$ 0	$ 823,741		79795
5LT0	870643	Nonhazardous Materials Civil Forfeiture	$ 0	$ 277,496		79796
5LT0	870644	Hazardous Materials Civil Forfeiture	$ 0	$ 898,800		79797
5LT0	870645	Motor Carrier Enforcement	$ 0	$ 5,401,318		79798
6380	870611	Biofuels/Municipal Waste Technology	$ 570	$ 0		79799
6610	870612	Hazardous Materials Transportation	$ 898,800	$ ~~898,800~~ 0		79800
TOTAL SSR State Special Revenue Fund Group			$ 40,800,995	$ ~~22,580,684~~ 27,869,572		79801 79802

TOTAL ALL BUDGET FUND GROUPS	$ 90,329,496	$ ~~74,014,053~~ 73,273,723	79803

COMMUNITY-VOICEMAIL SERVICE PILOT PROGRAM 79804

The Community-voicemail Service Pilot Program assessments authorized by Section 6 of Sub. S.B. 162 of the 128th General Assembly shall cease. These assessments shall be refunded without interest to those assessed under the program by the Public Utilities Commission within 60 days of the effective date of this section.

FUND ADJUSTMENTS

On July 1, 2012, or as soon as practicable thereafter, the Director of Budget and Management shall transfer the cash balances in the Hazardous Materials Registration Fund (Fund 4S60) and the Base State Registration Fund (Fund 4G40) to the Public Utilities Transportation Safety Fund (Fund 5LT0). The Director shall cancel any existing encumbrances against appropriation items 870618, Hazardous Material Registration, and 870621, Hazardous Materials Base State Registration, and reestablish them against appropriation item 870642, Hazardous Materials Registration. The amounts of the reestablished encumbrances are hereby appropriated. Upon completion of these transfers, the Hazardous Materials Registration Fund (Fund 4S60) and the Base State Registration Fund (Fund 4G40) are hereby abolished.

On July 1, 2012, or as soon as practicable thereafter, the Director of Budget and Management shall transfer the cash balance in the Transportation Enforcement Fund (Fund 4U80) to the Public Utilities Transportation Safety Fund (Fund 5LT0). The Director shall cancel any existing encumbrances against appropriation item 870620, Civil Forfeitures, and reestablish them against appropriation item 870643, Nonhazardous Materials Civil Forfeitures. The amounts of the reestablished encumbrances are hereby appropriated. Upon completion of these transfers, the

Transportation Enforcement Fund (Fund 4U80) is hereby abolished.

On July 1, 2012, or as soon as practicable thereafter, the Director of Budget and Management shall transfer the cash balance in the Radioactive Waste Transportation Fund (Fund 5HD0) to the Public Utilities Transportation Safety Fund (Fund 5LT0). The Director shall cancel any existing encumbrances against appropriation item 870629, Radioactive Waste Transportation, and reestablish them against appropriation item 870645, Motor Carrier Enforcement. The amounts of the reestablished encumbrances are hereby appropriated. Upon completion of these transfers, the Radioactive Waste Transportation Fund (Fund 5HD0) is hereby abolished.

On July 1, 2012, or as soon as practicable thereafter, the Director of Budget and Management shall transfer the cash balance in the Hazardous Materials Transportation Fund (Fund 6610) to the Public Utilities Transportation Safety Fund (Fund 5LT0). The Director shall cancel any existing encumbrances against appropriation item 870612, Hazardous Materials Transportation, and reestablish them against appropriation item 870644, Hazardous Materials Civil Forfeitures. The amounts of the reestablished encumbrances are hereby appropriated. Upon completion of these transfers, the Hazardous Materials Transportation Fund (Fund 6610) is hereby abolished.

On July 1, 2012, or as soon as practicable thereafter, the Director of Budget and Management shall transfer cash in an amount up to $21,000,000 from the Public Utilities Fund (Fund 5F60) to the Public Utilities Transportation Safety Fund (Fund 5LT0). The Director shall cancel any existing encumbrances against appropriation item 870625, Motor Transportation Regulation, and reestablish encumbrances or parts of encumbrances as needed in the fiscal year in the appropriate fund and appropriation item for the same purpose and to the same vendor. The amounts of the

reestablished encumbrances are hereby appropriated.

The fund created by division (E) of section 4921.21 of the Revised Code is the same fund, with the same name, as the Motor Carrier Safety Fund (Fund 3500).

The fund created by division (D) of section 4921.21 of the Revised Code is the same fund, with the same name, as the Commercial Vehicle Transportation Systems Fund (Fund 3V30).

Sec. 367.10. PWC PUBLIC WORKS COMMISSION

General Revenue Fund				
GRF	150904	Conservation General Obligation Debt Service	$ 21,953,000	$ 29,297,300
GRF	150907	State Capital Improvements General Obligation Debt Service	$ 106,770,600	$ ~~215,571,100~~ 208,571,100
TOTAL GRF General Revenue Fund			$ 128,723,600	$ ~~244,868,400~~ 237,868,400
Clean Ohio Conservation Fund Group				
7056	150403	Clean Ohio Operating Expenses	$ 300,000	$ 288,980
TOTAL 056 Clean Ohio Conservation Fund Group			$ 300,000	$ 288,980
TOTAL ALL BUDGET FUND GROUPS			$ 129,023,600	$ ~~245,157,380~~ 238,157,380

CONSERVATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150904, Conservation General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, at the times they are required to be made

for obligations issued under sections 151.01 and 151.09 of the Revised Code.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, at the times they are required to be made for obligations issued under sections 151.01 and 151.08 of the Revised Code.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 150403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering Clean Ohio Conservation Fund (Fund 7056) projects pursuant to sections 164.20 to 164.27 of the Revised Code.

REIMBURSEMENT TO THE GENERAL REVENUE FUND

(A) On or before July 15, 2013, the Director of the Public Works Commission shall certify to the Director of Budget and Management the following:

(1) The total amount disbursed from appropriation item 700409, Farmland Preservation, during the FY 2012-FY 2013 biennium; and

(2) The amount of interest earnings that have been credited to the Clean Ohio Conservation Fund (Fund 7056) that are in excess of the amount needed for other purposes as calculated by the Director of the Public Works Commission.

(B) If the Director of Budget and Management determines under division (A)(2) of this section that there are excess interest earnings, the Director of Budget and Management shall, on or before July 15, 2013, transfer the excess interest earnings to the General Revenue Fund in an amount equal to the total amount

disbursed under division (A)(1) of this section from the Clean Ohio Conservation Fund (Fund 7056).

Sec. 369.10. RAC STATE RACING COMMISSION

State Special Revenue Fund Group				
5620	875601	Thoroughbred Race Fund	$ 1,796,328	$ 1,696,456
5630	875602	Standardbred Development Fund	$ 1,697,418	$ 1,697,452
5640	875603	Quarter Horse Development Fund	$ 1,000	$ 1,000
5650	875604	Racing Commission Operating	$ 3,095,331	$ 2,934,178
5C40	875607	Simulcast Horse Racing Purse	$ 12,000,000	$ 12,000,000
5JK0	875610	Racing Commission Fund	$ 339,919	$ 8,169,547
TOTAL SSR State Special Revenue Fund Group			$ ~~18,590,078~~ 18,929,996	$ ~~18,329,087~~ 26,498,633
Holding Account Redistribution Fund Group				
R021	875605	Bond Reimbursements	$ 100,000	$ 100,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 100,000	$ 100,000
TOTAL ALL BUDGET FUND GROUPS			$ ~~18,690,078~~ 19,029,996	$ ~~18,429,087~~ 26,598,633

Sec. 371.10. BOR BOARD OF REGENTS

General Revenue Fund				
GRF	235321	Operating Expenses	$ 2,300,000	$ 2,300,000
GRF	235401	Lease Rental Payments	$ 83,151,600	$ 57,634,400

GRF 235402	Sea Grants	$ 285,000	$ 285,000	79940
GRF 235406	Articulation and Transfer	$ 2,000,000	$ 2,000,000	79941
GRF 235408	Midwest Higher Education Compact	$ 95,000	$ 95,000	79942
GRF 235409	HEI Information System	$ 800,000	$ 800,000	79943
GRF 235414	State Grants and Scholarship Administration	$ 1,230,000	$ 1,230,000	79944
GRF 235417	~~Ohio Learning Network~~ eStudent Services	$ 2,532,688	$ 2,532,688	79945
GRF 235428	Appalachian New Economy Partnership	$ 737,366	$ 737,366	79946
GRF 235433	Economic Growth Challenge	$ 440,000	$ 440,000	79947
GRF 235438	Choose Ohio First Scholarship	$ 15,750,085	$ 15,750,085	79948
GRF 235443	Adult Basic and Literacy Education - State	$ 7,302,416	$ 7,302,416	79949
GRF 235444	Post-Secondary Adult Career-Technical Education	$ 15,317,547	$ 15,317,547	79950
GRF 235474	Area Health Education Centers Program Support	$ 900,000	$ 900,000	79951
GRF 235501	State Share of Instruction	$ 1,735,530,031	$ 1,751,225,497	79952
GRF 235502	Student Support Services	$ 632,974	$ 632,974	79953
GRF 235504	War Orphans Scholarships	$ 4,787,833	$ 4,787,833	79954
GRF 235507	OhioLINK	$ 6,100,000	$ 6,100,000	79955

GRF 235508	Air Force Institute of Technology	$ 1,740,803	$ 1,740,803	79956
GRF 235510	Ohio Supercomputer Center	$ 3,347,418	$ 3,347,418	79957
GRF 235511	Cooperative Extension Service	$ 22,220,910	$ 22,220,910	79958
GRF 235514	Central State Supplement	$ 11,503,651	$ 10,928,468	79959
GRF 235515	Case Western Reserve University School of Medicine	$ 2,146,253	$ 2,146,253	79960
GRF 235519	Family Practice	$ 3,166,185	$ 3,166,185	79961
GRF 235520	Shawnee State Supplement	$ 2,448,523	$ 2,326,097	79962
GRF 235524	Police and Fire Protection	$ 107,814	$ 107,814	79963
GRF 235525	Geriatric Medicine	$ 522,151	$ 522,151	79964
GRF 235526	Primary Care Residencies	$ 1,500,000	$ 1,500,000	79965
GRF 235535	Ohio Agricultural Research and Development Center	$ 33,100,000	$ 33,100,000	79966
GRF 235536	The Ohio State University Clinical Teaching	$ 9,668,941	$ 9,668,941	79967
GRF 235537	University of Cincinnati Clinical Teaching	$ 7,952,573	$ 7,952,573	79968
GRF 235538	University of Toledo Clinical Teaching	$ 6,198,600	$ 6,198,600	79969
GRF 235539	Wright State University Clinical Teaching	$ 3,011,400	$ 3,011,400	79970

GRF 235540	Ohio University Clinical Teaching	$ 2,911,212	$ 2,911,212	79971
GRF 235541	Northeast Ohio Medical University Clinical Teaching	$ 2,994,178	$ 2,994,178	79972
GRF 235552	Capital Component	$ 20,638,274	$ ~~20,638,274~~ 13,628,639	79973
GRF 235555	Library Depositories	$ 1,440,342	$ 1,440,342	79974
GRF 235556	Ohio Academic Resources Network	$ 3,172,519	$ 3,172,519	79975
GRF 235558	Long-term Care Research	$ 195,300	$ 195,300	79976
GRF 235563	Ohio College Opportunity Grant	$ 80,284,265	$ 80,284,265	79977
GRF 235572	The Ohio State University Clinic Support	$ 766,533	$ 766,533	79978
GRF 235599	National Guard Scholarship Program	$ 16,912,271	$ 18,143,293	79979
GRF 235909	Higher Education General Obligation Debt Service	$ 108,262,500	$ 201,555,000	79980
TOTAL GRF General Revenue Fund		$ 2,226,105,156	$ ~~2,310,109,335~~ 2,303,099,700	79981
General Services Fund Group				79982
2200 235614	Program Approval and Reauthorization	$ 1,311,567	$ 1,457,959	79983
4560 235603	Sales and Services	$ 199,250	$ 199,250	79984
5JC0 235649	Co-op Internship Program	$ 12,000,000	$ 12,000,000	79985
5JC0 235667	Ohio College Opportunity Grant-Proprietary	$ 6,000,000	$ 6,000,000	79986

5JC0	235668	Air Force Institute of Technology - Defense/Aerospace Graduate Studies Institute	$ 4,000,000	$ 4,000,000	79987
TOTAL GSF General Services Fund Group			$ 23,510,817	$ 23,657,209	79988 79989
Federal Special Revenue Fund Group					79990
3120	235609	Tech Prep	$ 183,850	$ ~~183,850~~ 0	79991
3120	235611	Gear-up Grant	$ 3,900,000	$ ~~3,900,000~~ 50,000	79992
3120	235612	Carl D. Perkins Grant/Plan Administration	$ 912,961	$ 912,961	79993
3120	235617	Improving Teacher Quality Grant	$ 3,200,000	$ 3,200,000	79994
3120	235641	Adult Basic and Literacy Education - Federal	$ 14,835,671	$ 14,835,671	79995
3120	235659	Race to the Top Scholarship Program	$ 2,400,000	$ ~~3,780,000~~ 0	79996
3120	235660	Race to the Top Educator Preparation Reform Initiative	$ 448,000	$ ~~1,120,000~~ 0	79997
3120	235661	Americorps Grant	$ 260,000	$ ~~260,000~~ 0	79998
3H20	235608	Human Services Project	$ 3,500,000	$ 3,500,000	79999
3N60	235638	College Access Challenge Grant	$ 4,381,431	$ 4,381,431	80000
TOTAL FED Federal Special Revenue Fund Group			$ 34,021,913	$ ~~36,073,913~~ 26,880,063	80001 80002
State Special Revenue Fund Group					80003

4E80	235602	Higher Educational Facility Commission Administration	$ 29,100	$ 29,100	80004
5FR0	235640	~~Joyce Foundation~~ Shifting Gears Grant	$ 919,719	$ 919,719	80005
5FR0	235647	Developmental Education Initiatives	$ 135,000	$ 135,000	80006
5FR0	235657	Win-Win Grant	$ 37,000	$ 15,000	80007
5P30	235663	Variable Savings Plan	$ 8,946,994	$ 9,072,136	80008
6450	235664	Guaranteed Savings Plan	$ 900,293	$ 907,514	80009
6820	235606	Nursing Loan Program	$ 891,320	$ 891,320	80010
TOTAL SSR State Special Revenue Fund Group			$ 11,859,426	$ 11,969,789	80011 80012
Third Frontier Research & Development Fund Group					80013
7011	235634	Research Incentive Third Frontier Fund	$ 8,000,000	$ 8,000,000	80014
TOTAL 011 Third Frontier Research & Development Fund Group			$ 8,000,000	$ 8,000,000	80015
TOTAL ALL BUDGET FUND GROUPS			$ 2,303,497,312	$ ~~2,389,810,246~~ 2,373,606,761	80016

Sec. 371.30.30. AIR FORCE INSTITUTE OF TECHNOLOGY 80018

The foregoing appropriation item 235508, Air Force Institute of Technology, shall be used by the director of the Air Force Institute to: (A) strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio; and (B) support the Dayton Area Graduate Studies Institute, an engineering graduate consortium of Wright State University, the University of Dayton, and the Air Force Institute of Technology, with the participation of the University of Cincinnati and The Ohio State University. 80019 80020 80021 80022 80023 80024 80025 80026 80027

Any unexpended and unencumbered portion of the foregoing appropriation item 235508, Air Force Institute of Technology, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

Sec. 371.50.61. CO-OP INTERNSHIP PROGRAM

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to support the operations of Ohio University's Voinovich School.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year~~,~~ shall be used by the Chancellor of the Board of Regents to support the operations of The Ohio State University's John Glenn School of Public Affairs.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the Center for Public Management and Regional Affairs at Miami University.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the Washington Center Internship Program.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the ~~Maxine Goodman Levin College of Urban Affairs~~ mentoring program of the Ohio Center for the Advancement of Women in Public Service at the Cleveland State University.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the

University of Cincinnati Internship Program.

Any unexpended and unencumbered portion of the foregoing appropriation item 235649, Co-op Internship Program, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

Sec. 371.50.65. AIR FORCE INSTITUTE OF TECHNOLOGY – DEFENSE/AEROSPACE GRADUATE STUDIES INSTITUTE

The foregoing appropriation item 235668, Air Force Institute of Technology – Defense/Aerospace Graduate Studies Institute, shall be used by the Defense/Aerospace Graduate Studies Institute to strengthen regional job training, equip Ohio's workforce with needed skills, and strengthen the research and educational linkages among Department of Defense facilities in Ohio, institutions of higher education in Ohio, and available industry jobs in Ohio. These funds shall be matched by private industry partners or the Department of Defense in the aggregate amount of $2,500,000 over the FY 2012 - FY 2013 biennium.

Any unexpended and unencumbered portion of the foregoing appropriation item 235668, Air Force Institute of Technology - Defense/Aerospace Graduate Studies Institute, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

Sec. 371.60.80. (A) The Ohio Digital Learning Task Force is hereby established to develop a strategy for the expansion of digital learning that enables students to customize their education, produces cost savings, and meets the needs of Ohio's economy. The Task Force shall consist of the following members:

(1) The Chancellor of the Ohio Board of Regents or the Chancellor's designee;

(2) The Superintendent of Public Instruction or the

Superintendent's designee;

(3) The Director of the Governor's Office of 21st Century Education or the Director's designee;

(4) Up to six members appointed by the Governor, who shall be representatives of school districts or community schools, established under Chapter 3314. of the Revised Code, that are high-performing of their type and have demonstrated the ability to incorporate technology into the classroom successfully;

(5) A member appointed by the President of the Senate;

(6) A member appointed by the Speaker of the House of Representatives.

(B) Members of the Task Force shall be appointed not later than sixty days after the effective date of this section. Vacancies on the Task Force shall be filled in the same manner as the original appointments. Members shall serve without compensation.

(C) The Governor shall designate the chairperson of the Task Force. All meetings of the Task Force shall be held at the call of the chairperson.

(D) The Task Force shall do all of the following:

(1) Request information from textbook publishers about the development of digital textbooks and other new digital content distribution methods for use by primary, secondary, and post-secondary schools and institutions and examine that information;

(2) Examine potential cost savings and efficiency of utilizing digital textbooks and other new digital content distribution methods in primary, secondary, and post-secondary schools and institutions;

(3) Examine potential academic benefits of utilizing digital

textbooks and other new digital content distribution methods, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments;

(4) Examine digital content pilot programs and initiatives currently operating at primary, secondary, and post-secondary schools and institutions in Ohio, including, but not limited to, those financed in part with federal funds;

(5) Examine any state-level initiatives to provide or facilitate use of digital content in primary, secondary, and post-secondary schools and institutions in Ohio.

(E) The Task Force shall make recommendations regarding all of the following:

(1) The creation of high quality digital content and instruction in grades kindergarten to twelve for free access by public and nonpublic schools and students receiving home instruction;

(2) High quality professional development for teachers and principals providing online instruction or blended learning programs;

(3) Funding strategies that create incentives for high performance, innovation, and options in course providers and delivery;

(4) Student assessment and accountability;

(5) Infrastructure to support digital learning;

(6) Mobile learning and mobile learning applications;

(7) The clearinghouse established under section 3333.82 of the Revised Code;

(8) Ways to align the resources and digital learning

initiatives of state agencies and offices;

(9) Methods for removing redundancy and inefficiency in, and for providing coordination, of all digital learning programs, including the provision of free online instruction to public and nonpublic schools on a statewide basis;

(10) Methods of addressing future changes in technology and learning.

~~(E)~~(F) Not later than March 1, 2012, the Task Force shall issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. ~~Upon issuance of~~ After issuing its report, the Task Force shall monitor the implementation of its recommendations. Not later than June 30, 2013, the Task Force shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives whether digital learning is advancing in Ohio schools and submit any recommendations to further enhance the full deployment of useful digital learning programs and services. The Task Force shall cease to exist on June 30, 2013.

Sec. 373.10. DRC DEPARTMENT OF REHABILITATION AND CORRECTION

General Revenue Fund

GRF	501321	Institutional Operations	$ 909,547,156	$ 866,592,589
GRF	501403	Prisoner Compensation	$ 8,599,255	$ 8,599,255
GRF	501405	Halfway House	$ 43,637,069	$ 43,622,104
GRF	501406	Lease Rental Payments	$ 42,863,100	$ 104,301,500
GRF	501407	Community Nonresidential Programs	$ 25,859,382	$ 25,839,390
GRF	501408	Community Misdemeanor Programs	$ 14,906,800	$ 14,906,800

GRF	501501	Community Residential Programs - CBCF	$ 62,692,785	$ 62,477,785	80175
GRF	502321	Mental Health Services	$ 58,525,816	$ 51,778,513	80176
GRF	503321	Parole and Community Operations	$ 68,197,272	$ 63,783,848	80177
GRF	504321	Administrative Operations	$ 21,996,504	$ 20,085,474	80178
GRF	505321	Institution Medical Services	$ 209,231,014	$ 195,241,961	80179
GRF	506321	Institution Education Services	$ 20,237,576	$ 18,086,492	80180
GRF	507321	Institution Recovery Services	$ 5,786,109	$ 5,375,737	80181
TOTAL GRF General Revenue Fund			$ 1,492,079,838	$ 1,480,691,448	80182
General Services Fund Group					80183
1480	501602	~~Services and Agricultural~~ Institutional Services	$ 3,579,250	$ 3,584,263	80184
2000	501607	Ohio Penal Industries	$ 38,000,000	$ 38,000,000	80185
4830	501605	Property Receipts	$ 182,723	$ 182,086	80186
4B00	501601	Sewer Treatment Services	$ 2,145,630	$ ~~2,157,682~~ 2,057,682	80187
4D40	501603	Prisoner Programs	$ 14,900,000	$ 14,900,000	80188
4L40	501604	Transitional Control	$ 1,168,843	$ ~~1,213,120~~ 1,113,120	80189
4S50	501608	Education Services	$ 2,376,041	$ 2,359,775	80190
5710	501606	Training Academy Receipts	$ 125,000	$ 125,000	80191
5930	501618	Laboratory Services	$ 6,665,137	$ 6,664,729	80192
5AF0	501609	State and Non-Federal Awards	$ 1,440,000	$ 1,440,000	80193
5H80	501617	Offender Financial	$ 2,000,000	$ 2,000,000	80194

		Responsibility			
5L60	501611	Information Technology Services	$ 600,000	$ ~~600,000~~ 350,000	80195
TOTAL GSF General Services Fund Group			$ 73,182,624	$ ~~73,226,655~~ 72,776,655	80196
Federal Special Revenue Fund Group					80197
3230	501619	Federal Grants	$ 9,013,558	$ 9,180,703	80198
TOTAL FED Federal Special Revenue Fund Group			$ 9,013,558	$ 9,180,703	80199 80200
TOTAL ALL BUDGET FUND GROUPS			$ 1,574,276,020	$ ~~1,563,098,806~~ 1,562,648,806	80201

TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL SENTENCING REFORMS 80202 80203

For the purposes of implementing criminal sentencing reforms, and notwithstanding any other provision of law to the contrary, the Director of Budget and Management, at the request of the Director of Rehabilitation and Correction, may transfer up to $14,000,000 in appropriations, in each of fiscal years 2012 and 2013, from appropriation item 501321, Institutional Operations, to any combination of appropriation items 501405, Halfway House; 501407, Community Residential Programs; 501408, Community Misdemeanor Programs; and 501501, Community Residential Programs - CBCF. 80204 80205 80206 80207 80208 80209 80210 80211 80212 80213

OHIO BUILDING AUTHORITY LEASE PAYMENTS 80214

The foregoing appropriation item 501406, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Rehabilitation and Correction to the Ohio Building Authority under the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 80215 80216 80217 80218 80219 80220 80221 80222

152. of the Revised Code.

OSU MEDICAL CHARGES

Notwithstanding section 341.192 of the Revised Code, at the request of the Department of Rehabilitation and Correction, The Ohio State University Medical Center, including the James Cancer Hospital and Solove Research Institute and the Richard M. Ross Heart Hospital, shall provide necessary care to persons who are confined in state adult correctional facilities. The provision of necessary care shall be billed to the Department at a rate not to exceed the authorized reimbursement rate for the same service established by the Department of Job and Family Services under the Medical Assistance Program.

CASH TRANSFER FROM INSTITUTIONAL SERVICES FUND TO OHIO PENAL INDUSTRIES FUND

The Director of Budget and Management may transfer an amount not to exceed $4,000,000 in cash in fiscal year 2013 from the Institutional Services Fund (Fund 1480) to the Ohio Penal Industries Fund (Fund 2000).

Sec. 375.10. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund				
GRF	415402	Independent Living Council	$ 252,000	$ 252,000
GRF	415406	Assistive Technology	$ 26,618	$ 26,618
GRF	415431	Office for People with Brain Injury	$ 126,567	$ 126,567
GRF	415506	Services for People with Disabilities	$ 12,777,884	$ 12,777,884
GRF	415508	Services for the Deaf	$ 28,000	$ 28,000
TOTAL GRF General Revenue Fund			$ 13,211,069	$ 13,211,069
General Services Fund Group				

4670	415609	Business Enterprise Operating Expenses	$ 1,308,431	$ 1,303,090	80250
TOTAL GSF General Services Fund Group			$ 1,308,431	$ 1,303,090	80251 80252
Federal Special Revenue Fund Group					80253
3170	415620	Disability Determination	$ 97,579,095	~~97,579,095~~ 87,579,095	80254
3790	415616	Federal - Vocational Rehabilitation	$ 103,160,426	$ 103,150,102	80255
3L10	415601	Social Security Personal Care Assistance	$ 3,370,000	$ 3,370,000	80256
3L10	415605	Social Security Community Centers for the Deaf	$ 772,000	$ 772,000	80257
3L10	415608	Social Security Special Programs/Assistance	$ 1,521,406	$ 1,520,184	80258
3L40	415612	Federal Independent Living Centers or Services	$ 652,222	$ 652,222	80259
3L40	415615	Federal - Supported Employment	$ 929,755	$ 929,755	80260
3L40	415617	Independent Living/Vocational Rehabilitation Programs	$ 2,137,338	$ 2,137,338	80261
TOTAL FED Federal Special Revenue Fund Group			$ 210,122,242	~~210,110,696~~ 200,110,696	80262 80263
State Special Revenue Fund Group					80264
4680	415618	Third Party Funding	$ 10,802,589	$ 10,802,589	80265

4L10	415619	Services for Rehabilitation	$ 3,700,000	$ 3,700,000	80266
4W50	415606	Program Management Expenses	$ 11,636,730	$ 11,587,201	80267
TOTAL SSR State Special Revenue Fund Group			$ 26,139,319	$ 26,089,790	80268 80269
TOTAL ALL BUDGET FUND GROUPS			$ 250,781,061	$ ~~250,714,645~~ 240,714,645	80270

INDEPENDENT LIVING COUNCIL 80271

The foregoing appropriation item 415402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council and to support state independent living centers and independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d. 80272 80273 80274 80275 80276 80277 80278

Of the foregoing appropriation item 415402, Independent Living Council, $67,662 in each fiscal year shall be used as state matching funds for vocational rehabilitation innovation and expansion activities. 80279 80280 80281 80282

ASSISTIVE TECHNOLOGY 80283

The total amount of the foregoing appropriation item 415406, Assistive Technology, shall be provided to Assistive Technology of Ohio to provide grants and assistive technology services for people with disabilities in the State of Ohio. 80284 80285 80286 80287

OFFICE FOR PEOPLE WITH BRAIN INJURY 80288

The foregoing appropriation item 415431, Office for People with Brain Injury, shall be used to plan and coordinate head-injury-related services provided by state agencies and other government or private entities, to assess the needs for such services, and to set priorities in this area. 80289 80290 80291 80292 80293

Of the foregoing appropriation item 415431, Office for People with Brain Injury, $44,067 in each fiscal year shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

VOCATIONAL REHABILITATION SERVICES

The foregoing appropriation item 415506, Services for People with Disabilities, shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

At the request of the Chancellor of the Board of Regents, the Director of Budget and Management may transfer any unexpended, unencumbered appropriation in fiscal year 2012 or fiscal year 2013 from appropriation item 235502, Student Support Services, to appropriation item 415506, Services for People with Disabilities. Any appropriation so transferred shall be used by the Ohio Rehabilitation Services Commission to obtain additional federal matching funds to serve disabled students.

SERVICES FOR THE DEAF

The foregoing appropriation item 415508, Services for the Deaf, shall be used to provide grants to community centers for the deaf.

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS

The foregoing appropriation item 415617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs.

SOCIAL SECURITY REIMBURSEMENT FUNDS

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10),

to the extent funds are available, as follows:

(A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;

(B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and

(C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87.

PROGRAM MANAGEMENT EXPENSES

The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

Sec. 379.10. RDF REVENUE DISTRIBUTION FUNDS

Volunteer Firefighters' Dependents Fund				
7085 800985	Volunteer Firemen's Dependents Fund	$ 300,000	$ 300,000	
TOTAL 085 Volunteer Firefighters' Dependents Fund		$ 300,000	$ 300,000	
Agency Fund Group				
4P80 001698	Cash Management	$ 3,100,000	$ 3,100,000	

		Improvement Fund			
5JG0	110633	Gross Casino Revenue County Fund	$ 5,778,617	$ 138,882,294	80353
5JH0	110634	Gross Casino Revenue County Student Fund	$ 3,852,412	$ 92,588,196	80354
5JJ0	110636	Gross Casino Revenue Host City Fund	$ 566,531	$ 13,615,911	80355
~~5JK0~~	~~875610~~	~~Ohio State Racing Commission Fund~~	~~$ 339,919~~	~~$ 8,169,547~~	80356
~~5JL0~~	~~038629~~	~~Problem Casino Gambling and Addictions Fund~~	~~$ 226,612~~	~~$ 5,446,364~~	80357
~~5JN0~~	~~055654~~	~~Ohio Law Enforcement Training Fund~~	~~$ 226,612~~	~~$ 5,446,364~~	80358
6080	001699	Investment Earnings	$ 50,000,000	$ 150,000,000	80359
7062	110962	Resort Area Excise Tax	$ 1,000,000	$ 1,000,000	80360
7063	110963	Permissive Tax Distribution	$ 1,904,500,000	$ 1,980,700,000	80361
7067	110967	School District Income Tax	$ 317,000,000	$ 330,000,000	80362
TOTAL AGY Agency Fund Group			$ ~~2,286,590,703~~ 2,285,797,560	$ ~~2,728,948,676~~ 2,709,886,401	80363
Holding Account Redistribution					80364
R045	110617	International Fuel Tax Distribution	$ 40,000,000	$ 40,000,000	80365
TOTAL 090 Holding Account Redistribution Fund					80366
Revenue Distribution Fund Group			$ 40,000,000	$ 40,000,000	80367
7049	038900	Indigent Drivers Alcohol Treatment	$ 2,200,000	$ 2,200,000	80368
7050	762900	International Registration Plan	$ 30,000,000	$ 30,000,000	80369

		Distribution			
7051	762901	Auto Registration Distribution	$ 539,000,000	$ 539,000,000	80370
7054	110954	Local Government Property Tax Replacement - Utility	$ 16,000,000	$ 11,000,000	80371
7060	110960	Gasoline Excise Tax Fund	$ 393,000,000	$ 395,000,000	80372
7065	110965	Public Library Fund	$ 354,000,000	$ 345,000,000	80373
7066	800966	Undivided Liquor Permits	$ 14,100,000	$ 14,100,000	80374
7068	110968	State and Local Government Highway Distribution	$ 193,000,000	$ 196,000,000	80375
7069	110969	Local Government Fund	$ 577,000,000	$ 348,000,000	80376
7081	110981	Local Government Property Tax Replacement-Business	$ 291,000,000	$ 181,000,000	80377
7082	110982	Horse Racing Tax	$ 100,000	$ 100,000	80378
7083	700900	Ohio Fairs Fund	$ 1,400,000	$ 1,400,000	80379
TOTAL RDF Revenue Distribution Fund Group			$ 2,410,800,000	$ 2,062,800,000	80380 80381
TOTAL ALL BUDGET FUND GROUPS			$ ~~4,737,690,703~~ 4,736,897,560	$ ~~4,832,048,676~~ 4,812,986,401	80382

ADDITIONAL APPROPRIATIONS 80383

Appropriation items in this section shall be used for the purpose of administering and distributing the designated revenue distribution funds according to the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. 80384 80385 80386 80387 80388

GENERAL REVENUE FUND TRANSFERS 80389

Notwithstanding any provision of law to the contrary, in 80390

fiscal year 2012 and fiscal year 2013, the Director of Budget and Management may transfer from the General Revenue Fund to the Local Government Tangible Property Tax Replacement Fund (Fund 7081) in the Revenue Distribution Fund Group, those amounts necessary to reimburse local taxing units under section 5751.22 of the Revised Code. Also, in fiscal year 2012 and fiscal year 2013, the Director of Budget and Management may make temporary transfers from the General Revenue Fund to ensure sufficient balances in the Local Government Tangible Property Tax Replacement Fund (Fund 7081) and to replenish the General Revenue Fund for such transfers.

Sec. 387.10. SFC SCHOOL FACILITIES COMMISSION

General Revenue Fund				
GRF	230908	Common Schools General Obligation Debt Service	$ 150,604,900	$ ~~341,919,400~~ 329,919,400
TOTAL GRF General Revenue Fund			$ 150,604,900	$ ~~341,919,400~~ 329,919,400
State Special Revenue Fund Group				
5E30	230644	Operating Expenses	$ 8,950,000	$ 8,550,000
TOTAL SSR State Special Revenue Fund Group			$ 8,950,000	$ 8,550,000
TOTAL ALL BUDGET FUND GROUPS			$ 159,554,900	$ ~~350,469,400~~ 338,469,400

Sec. 403.10. TAX DEPARTMENT OF TAXATION

General Revenue Fund				
GRF	110321	Operating Expenses	$ 73,500,000	$ ~~73,550,000~~ 72,814,500
GRF	110404	Tobacco Settlement Enforcement	$ 200,000	$ ~~200,000~~ 198,000
GRF	110412	Child Support	$ 15,804	$ ~~15,804~~ 15,646

		Administration			
GRF	110901	Property Tax Allocation - Taxation	$ 610,900,000	$ 616,000,000	80416
TOTAL GRF General Revenue Fund			$ 684,615,804	$ ~~689,765,804~~ 689,028,146	80417
General Services Fund Group					80418
2280	110628	Tax Reform System Implementation	$ 13,638,008	$ ~~13,642,176~~ 13,505,754	80419
4330	110602	Tape File Account	$ 197,802	$ ~~197,878~~ 195,899	80420
5AP0	110632	Discovery Project	$ 2,445,799	$ ~~2,445,657~~ 2,421,200	80421
5BW0	110630	Tax Amnesty Promotion and Administration	$ 2,500,000	$ 0	80422
5CZ0	110631	Vendor's License Application	$ 250,000	$ 250,000	80423
5N50	110605	Municipal Income Tax Administration	$ 339,798	$ ~~339,975~~ 336,575	80424
5N60	110618	Kilowatt Hour Tax Administration	$ 150,000	$ ~~150,000~~ 148,500	80425
5V80	110623	Property Tax Administration	$ 12,195,733	$ ~~12,099,303~~ 11,978,310	80426
5W40	110625	Centralized Tax Filing and Payment	$ 200,000	$ ~~200,000~~ 198,000	80427
5W70	110627	Exempt Facility Administration	$ 50,000	$ ~~50,000~~ 49,500	80428
TOTAL GSF General Services Fund Group			$ 31,967,140	$ ~~29,374,989~~ 29,083,738	80429 80430
State Special Revenue Fund Group					80431
4350	110607	Local Tax Administration	$ 19,028,339	$ ~~19,225,941~~ 19,033,682	80432

4360	110608	Motor Vehicle Audit	$ 1,474,081	$ ~~1,474,353~~ 1,459,609	80433
4370	110606	Litter/Natural Resource Tax Administration	$ 20,000	$ ~~20,000~~ 19,800	80434
4380	110609	School District Income Tax	$ 5,859,041	$ ~~5,860,650~~ 5,802,044	80435
4C60	110616	International Registration Plan	$ 689,296	$ ~~689,308~~ 682,415	80436
4R60	110610	Tire Tax Administration	$ 245,462	$ ~~246,660~~ 244,193	80437
5V70	110622	Motor Fuel Tax Administration	$ 5,384,254	$ ~~5,086,236~~ 5,035,374	80438
6390	110614	Cigarette Tax Enforcement	$ 1,384,217	$ ~~1,384,314~~ 1,370,471	80439
6420	110613	Ohio Political Party Distributions	$ 500,000	$ 500,000	80440
6880	110615	Local Excise Tax Administration	$ 782,630	$ ~~782,843~~ 775,015	80441
TOTAL SSR State Special Revenue Fund Group			$ 35,367,320	$ ~~35,270,305~~ 34,922,603	80442 80443
Agency Fund Group					80444
4250	110635	Tax Refunds	$ 1,546,800,000	$ 1,546,800,000	80445
7095	110995	Municipal Income Tax	$ 21,000,000	$ 21,000,000	80446
TOTAL AGY Agency Fund Group			$ 1,567,800,000	$ 1,567,800,000	80447
Holding Account Redistribution Fund Group					80448
R010	110611	Tax Distributions	$ 50,000	$ 50,000	80449
R011	110612	Miscellaneous Income Tax Receipts	$ 50,000	$ 50,000	80450
TOTAL 090 Holding Account Redistribution Fund Group			$ 100,000	$ 100,000	80451 80452

TOTAL ALL BUDGET FUND GROUPS	$ 2,319,850,264	$ ~~2,322,311,098~~ 2,320,934,487	80453

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK 80454

The foregoing appropriation item 110901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor. 80455 80456 80457 80458 80459 80460 80461 80462 80463 80464 80465 80466 80467

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code. 80468 80469 80470 80471 80472 80473

Any sums, in addition to the amounts specifically appropriated in appropriation item 110901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, which are determined to be necessary for these purposes, are hereby appropriated. 80474 80475 80476 80477 80478 80479

TAX AMNESTY PROMOTION AND ADMINISTRATION 80480

The foregoing appropriation item 110630, Tax Amnesty Promotion and Administration, shall be used to pay expenses 80481 80482

incurred to promote and administer the tax amnesty program to be conducted from May 1, 2012, through June 15, 2012, by the Department of Taxation pursuant to Section 757.40 of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly.

MUNICIPAL INCOME TAX

The foregoing appropriation item 110995, Municipal Income Tax, shall be used to make payments to municipal corporations under section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.

TAX REFUNDS

The foregoing appropriation item 110635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

INTERNATIONAL REGISTRATION PLAN AUDIT

The foregoing appropriation item 110616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

Of the foregoing appropriation item 110607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.

CENTRALIZED TAX FILING AND PAYMENT FUND

The Director of Budget and Management, under a plan submitted

by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers of cash shall not exceed $400,000 in the biennium.

TOBACCO SETTLEMENT ENFORCEMENT

The foregoing appropriation item 110404, Tobacco Settlement Enforcement, shall be used by the Tax Commissioner to pay costs incurred in the enforcement of divisions (F) and (G) of section 5743.03 of the Revised Code.

Sec. 411.10. DVS DEPARTMENT OF VETERANS SERVICES

General Revenue Fund					
GRF	900321	Veterans' Homes	$ 27,369,946	$ 27,369,946	
GRF	900402	Hall of Fame	$ 107,075	$ 107,075	
GRF	900408	Department of Veterans Services	$ 1,901,823	~~1,901,823~~ 2,001,823	
GRF	900901	Persian Gulf, Afghanistan, and Iraq Compensation Debt Service	$ 5,486,600	$ 10,112,100	
TOTAL GRF General Revenue Fund			$ 34,865,444	~~39,490,944~~ 39,590,944	
General Services Fund Group					
4840	900603	Veterans' Homes Services	$ 305,806	$ 312,458	
TOTAL GSF General Services Fund Group			$ 305,806	$ 312,458	
Federal Special Revenue Fund Group					
3680	900614	Veterans Training	$ 769,500	$ 754,377	
3740	900606	Troops to Teachers	$ 136,786	$ 133,461	

3BX0	900609	Medicare Services	$ 2,500,000	$ 2,490,169	80536
3L20	900601	Veterans' Homes Operations - Federal	$ 23,455,379	$ 23,476,269	80537
TOTAL FED Federal Special Revenue Fund Group			$ 26,861,665	$ 26,854,276	80538 80539
State Special Revenue Fund Group					80540
4E20	900602	Veterans' Homes Operating	$ 10,117,680	$ 10,319,078	80541
6040	900604	Veterans' Homes Improvement	$ 347,598	$ 398,731	80542
TOTAL SSR State Special Revenue Fund Group			$ 10,465,278	$ 10,717,809	80543 80544
Persian Gulf, Afghanistan, and Iraq Compensation Fund Group					80545
7041	900615	Veteran Bonus Program - Administration	$ 1,605,410	$ 1,147,703	80546
7041	900641	Persian Gulf, Afghanistan, and Iraq Compensation	$ 25,425,000	$ 24,300,000	80547
TOTAL 041 Persian Gulf, Afghanistan, and Iraq Compensation Fund Group			$ 27,030,410	$ 25,447,703	80548 80549 80550
TOTAL ALL BUDGET FUND GROUPS			$ 99,528,603	$ ~~102,823,190~~ 102,923,190	80551

PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL OBLIGATION DEBT SERVICE 80552 80553

The foregoing appropriation item 900901, Persian Gulf, Afghanistan and Iraq Compensation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for Persian Gulf, Afghanistan and Iraq Conflicts Compensation purposes under sections 151.01 and 151.12 of the Revised Code. 80554 80555 80556 80557 80558 80559

Sec. 415.10. DYS DEPARTMENT OF YOUTH SERVICES 80560

General Revenue Fund					80561
GRF	470401	RECLAIM Ohio	$ 168,716,967	$ 162,362,228	80562
GRF	470412	Lease Rental Payments	$ 10,221,800	$ 27,230,100	80563
GRF	470510	Youth Services	$ 16,702,728	$ 16,702,728	80564
GRF	472321	Parole Operations	$ 10,830,019	$ 10,583,118	80565
GRF	477321	Administrative Operations	$ 12,222,051	$ 11,855,389	80566
TOTAL GRF General Revenue Fund			$ 218,693,565	$ 228,733,563	80567
General Services Fund Group					80568
1750	470613	Education Reimbursement	$ 8,160,277	$ ~~8,151,056~~ 6,251,056	80569
4790	470609	Employee Food Service	$ 150,000	$ 150,000	80570
4A20	470602	Child Support	$ 450,000	$ 400,000	80571
4G60	470605	General Operational Funds	$ 125,000	$ 125,000	80572
5BN0	470629	E-Rate Program	$ 535,000	$ 535,000	80573
TOTAL GSF General Services Fund Group			$ 9,420,277	$ ~~9,361,056~~ 7,461,056	80574 80575
Federal Special Revenue Fund Group					80576
3210	470601	Education	$ 1,774,469	$ 1,517,840	80577
3210	470603	Juvenile Justice Prevention	$ 300,000	$ 300,000	80578
3210	470606	Nutrition	$ 1,747,432	$ ~~1,704,022~~ 1,400,000	80579
3210	470610	Rehabilitation Programs	$ 36,000	$ ~~36,000~~ 0	80580
3210	470614	Title IV-E Reimbursements	$ 6,000,000	$ 6,000,000	80581
3BY0	470635	Federal Juvenile	$ 56,471	$ 2,000	80582

		Programs FFY 07			
3BZ0	470636	Federal Juvenile Programs FFY 08	$ 82,000	$ 1,618	80583
3CP0	470638	Federal Juvenile Programs FFY 09	$ 500,000	$ 300,730	80584
3CR0	470639	Federal Juvenile Programs FFY 10	$ 800,000	$ 479,900	80585
3FB0	470641	Federal Juvenile Programs FFY 11	$ 135,000	$ 600,000	80586
3FC0	470642	Federal Juvenile Programs FFY 12	$ 0	$ 135,000	80587
3V50	470604	Juvenile Justice/Delinquency Prevention	$ 2,010,000	$ 2,000,000	80588
TOTAL FED Federal Special Revenue Fund Group			$ 13,441,372	$ ~~13,077,110~~ 12,737,088	80589 80590
State Special Revenue Fund Group					80591
1470	470612	Vocational Education	$ 762,126	$ 758,210	80592
TOTAL SSR State Special Revenue Fund Group			$ 762,126	$ 758,210	80593 80594
TOTAL ALL BUDGET FUND GROUPS			$ 242,317,340	$ ~~251,929,939~~ 249,689,917	80595

COMMUNITY PROGRAMS 80596

For purposes of implementing juvenile sentencing reforms, and notwithstanding any provision of law to the contrary, the Department of Youth Services may use up to forty-five per cent of the unexpended, unencumbered balance of the portion of appropriation item 470401, RECLAIM Ohio, that is allocated to juvenile correctional facilities in each fiscal year to expand Targeted RECLAIM, the Behavioral Health Juvenile Justice Initiative, and other evidence-based community programs. 80597 80598 80599 80600 80601 80602 80603 80604

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 470412, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made for the period from July 1, 2011, through June 30, 2013, by the Department of Youth Services to the Ohio Building Authority under the leases and agreements for facilities made under Chapter 152. of the Revised Code. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item may be used for capital expenses related to the education program.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursements for state surplus property.

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES

In collaboration with the county family and children first council, the juvenile court of that county that receives allocations from one or both of the foregoing appropriation items 470401, RECLAIM Ohio, and 470510, Youth Services, may transfer portions of those allocations to a flexible funding pool as authorized by the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL."

Sec. 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

(A) An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is hereby reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

(1) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells, for a period of not more than five months from the end of the fiscal year;

(2) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(3) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(4) For an encumbrance for any other expense, for such period as the Director approves, provided such period does not exceed two years.

(B) Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (A)(2) of this section shall be

reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open.

(C) Upon the expiration of the reappropriation period set out in division (A) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period.

(D) Notwithstanding division (C) of this section, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July by this section for a period specified in division (A)(3) or (4) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (A)(3) or (4) of this section and shall remain available only for the purpose of discharging the encumbrance.

(E) The Director of Budget and Management may correct accounting errors committed by the staff of the Office of Budget and Management, such as ~~re-establishing~~ reestablishing encumbrances or appropriations cancelled in error, during the cancellation of operating encumbrances in November and of nonoperating encumbrances in December.

(F) The Director of Budget and Management may at any time correct accounting errors committed by the staff of a state institution of higher education, as defined in section 3345.011 of the Revised Code, such as reestablishing prior year nonoperating

encumbrances canceled or modified in error. The reestablished encumbrance amounts are hereby appropriated.

(G) If the Controlling Board approved a purchase, that approval remains in effect so long as the appropriation used to make that purchase remains encumbered.

Sec. 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS

(A) The Office of Internal Auditing within the Office of Budget and Management shall, in connection with its duties under sections 126.45 to 126.48 of the Revised Code, monitor and measure the effectiveness of funds allocated to the state as part of the federal American Recovery and Reinvestment Act of 2009. As such, the Office of Internal Auditing shall review how funds allocated to each state agency are spent. For purposes of this section, "state agency" has the same meaning as in division (A) of section 126.45 of the Revised Code.

In addition to the reports required under section 126.47 of the Revised Code, the Office of Internal Auditing shall ~~submit~~ prepare a report of its findings for the period beginning July 1, 2011, and ending December 31, 2011. The Office shall submit the report to the President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and the Chairs of the committees in the Senate and House of Representatives handling finance and appropriations~~. The report shall be submitted every six months at the following intervals:~~

~~(1) For the six-month period ending December 31, 2011, not later than~~ by February 1, 2012~~;~~

~~(2) For the six-month period ending June 30, 2012, not later than August 1, 2012;~~

~~(3) For the six-month period ending December 31, 2012, not~~

~~later than February 1, 2013;~~

~~(4) For the six-month period ending June 30, 2013, not later than August 1, 2013~~.

(B) When, as part of its compliance with the federal American Recovery and Reinvestment Act of 2009 requirements to monitor and measure the effectiveness of funds for which the state of Ohio is the prime recipient, and for which reporting authority has not been delegated to a ~~sub-recipient~~ subrecipient, the Office of Budget and Management submits quarterly reports to the federal government, the Office of Budget and Management shall also submit those reports to the President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and Chairs and ranking members of the committees in the Senate and House of Representatives handling finance and appropriations. The Office of Budget and Management shall continue to submit quarterly reports to the legislature for the duration of the period in which the state of Ohio is required to make reports to the federal government concerning Ohio's use of the federal American Recovery and Reinvestment Act of 2009 funds.

Section 601.41. That existing Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, 209.30, 211.10, 215.10, 215.20, 223.10, 229.10, 243.10, 261.10.40, 261.10.70, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 267.10.40, 267.30.20, 267.30.40, 279.10, 283.10, 287.10, 291.10, 307.10, 309.10, 309.30.30, 309.30.33, 309.30.53, 309.30.73, 313.10, 315.10, 323.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 367.10, 369.10, 371.10, 371.30.30, 371.50.61, 371.50.65,

371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, and 521.70 of Am. Sub. H.B. 153 of the 129th General Assembly are hereby repealed.

Section 601.43. That Section 247.10 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 319 of the 129th General Assembly, be amended to read as follows:

Sec. 247.10. CEB CONTROLLING BOARD

General Revenue Fund					
GRF	911404	Mandate Assistance	$ 2,750,000	$ 0	
GRF	911441	Ballot Advertising Costs	$ 475,000	$ 475,000	
TOTAL GRF General Revenue Fund			$ 3,225,000	$ 475,000	
General Services Fund Group					
5KM0	911614	CB Emergency Purposes	$ 10,000,000	$ 10,000,000	
TOTAL GSF General Services Fund Group			$ 10,000,000	$ 10,000,000	
TOTAL ALL BUDGET FUND GROUPS			$ 13,225,000	$ 10,475,000	

FEDERAL SHARE

In transferring appropriations to or from appropriation items that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

REDISTRICTING IMPLEMENTATION

The foregoing appropriation item 911404, Mandate Assistance, shall be used in a method prescribed by the Secretary of State and transferred by the Director of Budget and Management to implement this act, which includes remapping and reprecincting counties, and

reprogramming database systems and voting machines. At the end of fiscal year 2012, an amount equal to the unexpended, unencumbered portion of appropriation item 911404, Mandate Assistance, is hereby reappropriated in fiscal year 2013 for the same purpose.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E20) to a fund and appropriation item used by the Department of Public Safety to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding to fund the State Disaster Relief Program for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

Fund 5E20 shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriations to any fund and appropriation item for the payment of state agency disaster relief program expenses for disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist.

Upon the request of the Department of Public Safety, the Controlling Board may release up to $3,000,000 for Blanchard River flood mitigation projects.

BALLOT ADVERTISING COSTS

Pursuant to section 3501.17 of the Revised Code, and upon requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY

A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds.

Section 601.44. That existing Section 247.10 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 319 of the 129th General Assembly, is hereby repealed.

Section 601.46. That Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 371 of the 129th General Assembly, be amended to read as follows:

Sec. 261.10. DEV ~~DEPARTMENT OF~~ DEVELOPMENT <u>SERVICES AGENCY</u>

General Revenue Fund

GRF	195401	Thomas Edison Program	$ 14,820,354	$ 0
GRF	195402	Coal ~~Development~~	$ 260,983	$ 261,205

		~~Office~~ Research Operating			
GRF	195404	Small Business Development	$ 1,565,770	$ 0	80846
GRF	195405	Minority Business Enterprise Division	$ 1,118,528	$ 0	80847
GRF	195407	Travel and Tourism	$ 5,000,000	$ ~~0~~ 5,000,000	80848
GRF	195412	Rapid Outreach Grants	$ 9,000,000	$ 0	80849
GRF	195415	~~Strategic~~ Business ~~Investment Division and Regional Offices~~ Development Services	$ 4,500,000	$ ~~0~~ 2,413,387	80850
GRF	195416	Governor's Office of Appalachia	$ 3,700,000	$ ~~3,700,000~~ 0	80851
GRF	195422	Technology Action	$ 547,341	$ 0	80852
GRF	195426	Clean Ohio Implementation	$ 468,365	$ ~~0~~ 468,365	80853
GRF	195432	Global Markets	$ 3,500,000	$ 0	80854
GRF	195434	Industrial Training Grants	$ 10,000,000	$ 0	80855
GRF	195497	CDBG Operating Match	$ 1,015,000	$ ~~0~~ 1,015,000	80856
GRF	195501	Appalachian Local Development Districts	$ 391,482	$ ~~391,482~~ 0	80857
GRF	195502	Appalachian Regional Commission Dues	$ 195,000	$ ~~195,000~~ 0	80858
~~GRF~~	~~195528~~	~~Economic Development Projects~~	~~$ 0~~	~~$ 26,943,518~~	80859
GRF	195532	Technology Programs and Grants	$ 0	$ 13,547,341	80860
GRF	195533	Business Assistance	$ 0	$ 5,899,465	80861
GRF	195535	Appalachia Assistance	$ 0	$ 4,286,482	80862
GRF	195901	Coal Research & Development General	$ 7,861,100	$ 5,577,700	80863

		Obligation Debt Service			
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	$ 29,323,300	$ 63,640,300	80864
GRF	195912	Job Ready Site Development General Obligation Debt Service	$ 9,859,200	$ 15,680,500	80865
TOTAL GRF General Revenue Fund			$ 103,126,423	$ ~~116,389,705~~ 118,039,745	80866
General Services Fund Group					80867
1350	195684	~~Supportive~~ Development Services Operations	$ 11,700,000	$ 11,700,000	80868
4W10	195646	Minority Business Enterprise Loan	$ 2,500,000	$ 2,500,000	80869
5AD0	195633	Legacy Projects	$ 15,000,000	$ ~~15,000,000~~ 18,600,000	80870
5AD0	195677	Economic Development Contingency	$ 10,000,000	$ 0	80871
5W50	195690	Travel and Tourism Cooperative Projects	$ 50,000	$ 50,000	80872
6850	195636	~~Direct Cost Recovery~~ Development Services Reimbursable Expenditures	$ 750,000	$ 750,000	80873
TOTAL GSF General Services Fund Group			$ 40,000,000	$ ~~30,000,000~~ 33,600,000	80874 80875
Federal Special Revenue Fund Group					80876

3080	195602	Appalachian Regional Commission	$ 475,000	$ 475,000	80877
3080	195603	Housing ~~and Urban Development~~ Assistance Programs	$ 6,000,000	$ 6,000,000	80878
3080	195605	Federal Projects	$ 85,028,606	$ ~~85,470,106~~ 0	80879
3080	195609	Small Business Administration Grants	$ 6,438,143	$ 5,511,381	80880
3080	195618	Energy ~~Federal~~ Grants	$ 38,000,000	$ 3,400,000	80881
3080	195670	Home Weatherization Program	$ 0	$ 72,670,106	80882
3080	195671	Brownfield Redevelopment	$ 0	$ 6,800,000	80883
3080	195672	Manufacturing Extension Partnership	$ 0	$ 6,000,000	80884
3350	195610	Energy ~~Conservation and Emerging Technology~~ Programs	$ 1,100,000	$ 1,100,000	80885
3AE0	195643	Workforce Development Initiatives	$ 16,300,000	$ 16,300,000	80886
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	$ 3,000,000	$ 42,485	80887
3EG0	195608	~~Federal~~ Energy Sector Training Grants	$ 5,000,000	$ 1,344,056	80888
3K80	195613	Community Development Block Grant	$ 76,795,818	$ 65,210,000	80889
3K90	195611	Home Energy Assistance Block Grant	$ 115,743,608	$ 115,743,608	80890
3K90	195614	HEAP Weatherization	$ 22,000,000	$ 22,000,000	80891
3L00	195612	Community Services	$ 27,240,217	$ 27,240,217	80892

		Block Grant			
3V10	195601	HOME Program	$ 40,000,000	$ 40,000,000	80893
TOTAL FED Federal Special Revenue Fund Group			$ 443,121,392	$ 389,836,853	80894 80895
State Special Revenue Fund Group					80896
4500	195624	Minority Business Bonding Program Administration	$ 160,110	$ 159,069	80897
4510	195625	Economic Development Financing Operating	$ 3,000,000	$ ~~3,000,000~~ 0	80898
4510	195649	Business Assistance Programs	$ 0	$ 3,700,800	80899
4F20	195639	State Special Projects	$ 180,437	$ 180,436	80900
4F20	195676	Marketing Initiatives	$ 5,000,000	$ 0	80901
4F20	195699	Utility ~~Provided Funds~~ Community Assistance	$ 500,000	$ 500,000	80902
4S00	195630	Tax Incentive Programs	$ 650,800	$ ~~650,800~~ 0	80903
5CG0	195679	Alternative Fuel Transportation	$ 750,000	$ 750,000	80904
5HJ0	195604	Motion Picture Tax Credit Program	$ 50,000	$ ~~50,000~~ 0	80905
5HR0	195526	~~Ohio~~ Incumbent Workforce ~~Job~~ Training Vouchers	$ 20,000,000	$ 30,000,000	80906
5HR0	195622	Defense Development Assistance	$ 5,000,000	$ 5,000,000	80907
5JR0	195635	Redevelopment Program Support	$ 0	$ 100,000	80908
5JR0	195656	New Market Tax Credit Program	$ 50,000	$ ~~50,000~~ 0	80909
5KD0	195621	Brownfield Stormwater Loan	$ 50,000	$ ~~50,000~~ 0	80910
5KN0	195640	Local Government	$ 175,000	$ 44,825,000	80911

		Innovation			
5LK0	195655	Workforce Development Programs	$ 0	$ 10,000,000	80912
5M40	195659	Low Income Energy Assistance (USF)	$ 245,000,000	$ 245,000,000	80913
5M50	195660	Advanced Energy Loan Programs	$ 8,000,000	$ 0	80914
5W60	195691	International Trade Cooperative Projects	$ 160,000	$ 160,000	80915
6170	195654	Volume Cap Administration	$ 94,397	$ 92,768	80916
6460	195638	Low- and Moderate-Income Housing Trust Fund	$ 53,000,000	$ 53,000,000	80917
TOTAL SSR State Special Revenue					80918
Fund Group			$ 341,820,744	$ ~~383,468,073~~ 393,468,073	80919
Facilities Establishment Fund Group					80920
5S90	195628	Capital Access Loan Program	$ 1,500,000	$ 1,500,000	80921
7009	195664	Innovation Ohio	$ 15,000,000	$ 15,000,000	80922
7010	195665	Research and Development	$ 22,000,000	$ 22,000,000	80923
7037	195615	Facilities Establishment	$ 50,000,000	$ 50,000,000	80924
TOTAL 037 Facilities					80925
Establishment Fund Group			$ 88,500,000	$ 88,500,000	80926
Clean Ohio Revitalization Fund					80927
7003	195663	Clean Ohio ~~Operating~~ Program	$ 950,000	$ 950,000	80928
TOTAL 7003 Clean Ohio			$ 950,000	$ 950,000	80929
Revitalization Fund					

Third Frontier Research & Development Fund Group					80930
7011	195686	Third Frontier Operating	$ 1,149,750	$ 1,149,750	80931
7011	195687	Third Frontier Research & Development Projects	$ 183,850,250	$ 133,850,250	80932
7014	195620	Third Frontier Operating - Tax	$ 1,700,000	$ 1,700,000	80933
7014	195692	Research & Development Taxable Bond Projects	$ 38,300,000	$ 38,300,000	80934
TOTAL 011 Third Frontier Research & Development Fund Group			$ 225,000,000	$ 175,000,000	80935
Job Ready Site Development Fund Group					80936
7012	195688	Job Ready Site ~~Operating~~ Program	$ 800,000	$ 800,000	80937
TOTAL 012 Job Ready Site Development Fund Group			$ 800,000	$ 800,000	80938
Tobacco Master Settlement Agreement Fund Group					80939
M087	195435	Biomedical Research and Technology Transfer	$ 1,999,224	$ 1,999,224	80940
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			$ 1,999,224	$ 1,999,224	80941
TOTAL ALL BUDGET FUND GROUPS			$ 1,245,317,783	$ ~~1,186,943,855~~ 1,202,193,895	80942

Sec. 261.20.93. LOCAL GOVERNMENT INNOVATION FUND 80944

The foregoing appropriation item 195640, Local Government Innovation, shall be used for the purposes of making loans and grants to political subdivisions under the Local Government Innovation Program in accordance with sections 189.01 to 189.10 of 80945 80946 80947 80948

the Revised Code. Of the foregoing appropriation item 195640, Local Government Innovation, up to $175,000 in fiscal year 2012 and $175,000 in fiscal year 2013 shall be used for administrative costs incurred by the ~~Department of~~ Development Services Agency.

On the effective date of this amendment, or as soon as possible thereafter, the Director of Budget and Management shall transfer $175,000 in cash from the General Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer $44,825,000 in cash from the General Revenue Fund to the Local Government Innovation Fund (Fund 5KN0).

Section 601.47. That existing Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 371 of the 129th General Assembly, are hereby repealed.

Section 601.48. That Section 8 of Sub. H.B. 369 of the 129th General Assembly be amended to read as follows:

Sec. 8. (A) There is hereby created the Redistricting Reform Task Force, comprised of eight members of the General Assembly who shall be equally divided between the members of the two major political parties. Not later than thirty days after the effective date of this section, the legislative leader of the majority caucus and the legislative leader of the minority caucus in each house of the General Assembly shall each appoint two members to the Task Force.

The Task Force shall be co-chaired by two members, one from each major political party. The legislative leaders in the House of Representatives and in the Senate who are members of the same political party shall jointly appoint a chairperson.

(B) The purpose of the Task Force shall be to create a

redistricting reform proposal for consideration by the General Assembly during 2012.

(C) The Task Force shall issue a report, not later than ~~June 30~~ December 15, 2012, that includes the Task Force's recommendations for reforming the redistricting process.

(D) The Task Force shall hold a minimum of three public hearings, one of which shall be conducted after the Task Force issues its report, to allow for meaningful public discussion of the recommendations included in the report.

Section 601.49. That existing Section 8 of Sub. H.B. 369 of the 129th General Assembly is hereby repealed.

Section 601.50. That Section 4 of Sub. S.B. 171 of the 129th General Assembly be amended to read as follows:

Sec. 4. The following agencies are retained under division (D) of section 101.83 of the Revised Code and expire on December 31, 2016:

AGENCY NAME	REVISED CODE OR UNCODIFIED SECTION
Academic Distress Commission	3302.10
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12
Advisory Board to Assist and Advise in the Operation of the Ohio Center for Autism and Low Incidence	3323.33, 3323.34
Advisory Council on Amusement Ride Safety	1711.51, 1711.52
Advisory Council of Directors for Prison Labor	5145.162
Advisory Council for Wild, Scenic, or Recreational River Area(s)	1547.84

Advisory Committee on Livestock Exhibitions	901.71	81001
Agricultural Commodity Marketing Programs Operating Committees	924.07	81002
Agricultural Commodity Marketing Programs Coordinating Committee	924.14	81003
Alternative Energy Advisory Committee	4928.64(D)	81004
AMBER Alert Advisory Committee	5502.521	81005
Apprenticeship Council	Chapter 4139.	81006
Armory Board of Control	5911.09, 5911.12	81007
Automated Title Processing Board	4505.09(C)(1)	81008
Backflow Advisory Board	3703.21	81009
Banking Commission	1123.01	81010
Board of Directors of the Great Lakes Protection Fund	1506.22 (6161.04)	81011
Board of Directors of the Medical Liability Underwriting Association Stabilization Fund	3929.631	81012
Board of Directors of the Ohio Appalachian Center for Higher Education	3333.58	81013
Board of Directors of the Ohio Health Reinsurance Program	3924.08 - 3924.11	81014
Board of Governors of the Commercial Insurance Joint Underwriting Association	3930.03	81015
Board of Governors of the Medical Liability Underwriting Association	3929.64	81016
Board of Voting Machines Examiners	3506.05	81017
Budget Planning and Management Commission	Section 509.10, H.B. 1, 128th G.A.	81018
Brain Injury Advisory Committee	3304.231	81019
Bureau of Workers' Compensation Board of Directors	4121.12	81020
Capitol Square Review and Advisory Board	105.41	81021
Child Care Advisory Council	5104.08	81022

Child Support Guideline Advisory Council	3119.024	81023
Children's Trust Fund Board	3109.15 - 3109.17	81024
Citizen's Advisory Council	5123.092, 5123.093	81025
Clean Ohio Trail Advisory Board	1519.06	81026
Coastal Resources Advisory Council	1506.12	81027
Commission on African-American Males	4112.12, 4112.13	81028
Commission on Hispanic-Latino Affairs	121.31	81029
Commission on Minority Health	3701.78	81030
Committee on Prescriptive Governance	4723.49 - 4723.492	81031
Commodity Advisory Commission	926.32	81032
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	81033
Continuing Education Committee	109.80(B)	81034
Council on Alcohol and Drug Addiction Services	3793.09	81035
Council on Unreclaimed Strip Mined Lands	1513.29	81036
County Sheriff's Standard Car Marking and Uniform Commission	311.25 - 311.27	81037
Credential Review Board	3319.65	81038
Credit Union Council	1733.329	81039
Criminal Sentencing Advisory Committee	181.22	81040
Data Collection and Analysis Group	3727.32	81041
Dentist Loan Repayment Advisory Board	3702.92	81042
Department Advisory Council(s)	107.18, 121.13	81043
Development Financing Advisory Council	122.40, 122.41	81044
Early Childhood Advisory Council	3301.90	81045
Education Commission of the States (Interstate Compact for Education)	3301.48, 3301.49	81046
Education Management Information System Advisory Board	3301.0713	81047
Educator Standards Board	3319.60	81048

Electrical Safety Inspector Advisory Committee	3783.08	81049
Emergency Response Commission	3750.02	81050
Engineering Experiment Station Advisory Committee	3335.27	81051
Environmental Education Council	3745.21	81052
Environmental Protection Agency Advisory Board(s)	121.13, 3704.03, 3745.01	81053
eTech Ohio Commission	3353.02 - 3353.04	81054
Ex-Offender Reentry Coalition	5120.07	81055
Farmland Preservation Advisory Board	901.23	81056
Financial Planning and Supervision Commission(s) for Municipal Corporation, County, or Township	118.05	81057
Financial Planning and Supervision Commission for a school district	3316.05	81058
Forestry Advisory Council	1503.40	81059
Governance Authority for a State University or College	3345.75	81060
Governor's Council on People with Disabilities	3303.41	81061
Governor's Policy Information Working Group	Section 313, H.B. 420, 127th G.A.	81062
Governor's Residence Advisory Commission	107.40	81063
Grain Marketing Program Operating Committee	924.20 - 924.30	81064
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	81065
Gubernatorial Transition Committee	107.29, 126.26	81066
Help Me Grow Advisory Council	3701.611	81067
Hemophilia Advisory Subcommittee of the Medically Handicapped Children's Medical Advisory Council	3701.0210	81068
Homeland Security Advisory Council	5502.011(E)	81069
Hospital Measures Advisory Council	3727.31	81070
Housing Trust Fund Advisory Committee	174.06	81071
Industrial Commission Nominating Council	4121.04	81072

Industrial Technology and Enterprise Advisory Council	122.29, 122.30	81073
Infant Hearing Screening Subcommittee	3701.507	81074
Infection Control Group	3727.312(D)	81075
Insurance Agent Education Advisory Council	3905.483	81076
Interstate Rail Passenger Advisory Council	4981.35	81077
Joint Select Committee on Volume Cap	133.021	81078
Labor-Management Government Advisory Council	4121.70	81079
Legislative Programming Committee of the Ohio Government Telecommunications Service	3353.07	81080
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	81081
Maternity and Newborn Advisory Council	3711.20, 3711.21	81082
Medically Handicapped Children's Medical Advisory Council	3701.025	81083
Midwest Interstate Passenger Rail Compact Commission	4981.361	81084
Milk Sanitation Board	917.03 - 917.032	81085
Mine Subsidence Insurance Governing Board	3929.51	81086
Minority Development Financing Advisory Board	122.72, 122.73	81087
Multi-Agency Radio Communications System (MARCS) Steering Committee	Section 15.02, H.B. 640, 123rd G.A.	81088
National Museum of Afro-American History and Culture Planning Committee	149.303	81089
New African Immigrants Commission	4112.31, 4112.32	81090
Ohio Accountability Task Force	3302.021(E)	81091
Ohio Advisory Council for the Aging	173.03	81092
Ohio Agriculture License Plate Scholarship Fund Board	901.90	81093
Ohio Arts Council	Chapter 3379.	81094
Ohio Business Gateway Steering Committee	5703.57	81095
Ohio Cemetery Dispute Resolution Commission	4767.05, 4767.06	81096

Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)(4)	81097
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	81098
Ohio Commission on Dispute Resolution and Conflict Management	179.02 - 179.04	81099
Ohio Commission on Fatherhood	5101.34	81100
Ohio Community Service Council	121.40 - 121.404	81101
Ohio Council for Interstate Adult Offender Supervision	5149.22	81102
Ohio Cultural Facilities Commission	Chapter 3383.	81103
Ohio Cystic Fibrosis Legislative Task Force	101.38	81104
Ohio Developmental Disabilities Council	5123.35	81105
Ohio Expositions Commission	991.02	81106
Ohio Family and Children First Cabinet Council	121.37	81107
Ohio Geographically Referenced Information Program Council	125.901, 125.902	81108
Ohio Geology Advisory Council	1501.11	81109
Ohio Grape Industries Committee	924.51 - 924.55	81110
Ohio Historic Site Preservation Advisory Board	149.301	81111
Ohio Historical Society Board of Trustees	149.30	81112
Ohio Judicial Conference	105.91 - 105.97	81113
Ohio Lake Erie Commission	1506.21	81114
Ohio Legislative Commission on the Education and Preservation of State History	Section 701.05, H.B. 1, 128th G.A.	81115
Ohio Medical Quality Foundation	3701.89	81116
Ohio Parks and Recreation Council	1541.40	81117
Ohio Peace Officer Training Commission	109.71, 109.72	81118
Ohio Private Investigation and Security Services Commission	4749.021, 4743.01	81119
Ohio Public Defender Commission	120.01 - 120.03	81120
Ohio Public Library Information Network Board of	3375.65, 3375.66	81121

Trustees		
Ohio Quarter Horse Development Commission	3769.086	81122
Ohio Small Government Capital Improvements Commission	164.02(C)(D)	81123
Ohio Soil and Water Conservation Commission	1515.02	81124
Ohio Standardbred Development Commission	3769.085	81125
Ohio Subrogation Rights Commission	2323.44	81126
Ohio Thoroughbred Racing Advisory Committee	3769.084	81127
Ohio Transportation Finance Commission	5531.12(B) to (D)	81128
Ohio Tuition Trust Authority	3334.03, 3334.08	81129
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10, 3337.11	81130
Ohio Vendors Representative Committee	3304.34, 20 USC 107	81131
Ohio War Orphans Scholarship Board	5910.02 - 5910.06	81132
Ohio Water Advisory Council	1521.031	81133
Ohio Water Resources Council Advisory Group	1521.19	81134
Ohio Water Resources Council	1521.19	81135
Oil and Gas Commission	1509.35	81136
Operating Committee of the Oil and Gas Marketing Program	1510.06, 1510.11	81137
Organized Crime Investigations Commission	177.01	81138
Pharmacy and Therapeutics Committee of the Department of Job and Family Services	5111.084	81139
Physician Assistant Policy Committee of the State Medical Board	4730.05, 4730.06	81140
Physician Loan Repayment Advisory Board	3702.81	81141
Power Siting Board	4906.02	81142
Prequalification Review Board	5525.07	81143
Private Water Systems Advisory Council	3701.346	81144
~~Public Health Council~~	~~3701.33, 3701.34~~	81145

Public Utilities Commission Nominating Council	4901.021	81146
Public Utility Property Tax Study Committee	5727.85(K)	81147
Radiation Advisory Council	3748.20	81148
Reclamation Commission	1513.05	81149
Reclamation Forfeiture Fund Advisory Board	1513.182	81150
Recreation and Resources Commission	1501.04	81151
Recycling and Litter Prevention Advisory Council	1502.04	81152
School and Ministerial Lands Divestiture Committee	501.041	81153
Savings and Loan Associations and Savings Banks Board	1181.16	81154
Second Chance Trust Fund Advisory Committee	2108.35	81155
Service Coordination Workgroup	Section 751.20, H.B. 1, 128th G.A.	81156
Ski Tramway Board	4169.02	81157
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	81158
Solid Waste Management Advisory Council	3734.51	81159
Special Commission to Consider the Suspension of Local Government Officials	3.16	81160
Speed to Scale Task Force	Section 375.60.80, H.B. 119, 128th G.A.	81161
State Agency Coordinating Group	1521.19	81162
State Audit Committee	126.46	81163
State Council of Uniform State Laws	105.21 - 105.27	81164
State Criminal Sentencing Commission	181.22 - 181.26	81165
State Fire Council	3737.81	81166
State Library Board	3375.01	81167
State Victims Assistance Advisory Council	109.91(B) and (C)	81168
Statewide Consortium of County Law Library	3375.481	81169

Resource Boards		
STEM Committee	3326.02	81170
Student Tuition Recovery Authority	3332.081	81171
Sunset Review Committee	101.84 - 101.87	81172
Tax Credit Authority	122.17(M)	81173
Technical Advisory Committee to Assist Director of the Ohio Coal Development Office	1551.35	81174
Technical Advisory Council on Oil and Gas	1509.38	81175
Transportation Review Advisory Council	5512.07 - 5512.09	81176
Unemployment Compensation Advisory Council	4141.08	81177
Unemployment Compensation Review Commission	4141.06	81178
Veterans Advisory Committee	5902.02(K)	81179
Volunteer Fire Fighters' Dependents Fund Boards (private volunteer)	146.02 - 146.06	81180
Volunteer Fire Fighters' Dependents Fund Boards (public)	146.02 - 146.06	81181
Water and Sewer Commission	1525.11(C)	81182
Waterways Safety Council	1547.73	81183
Wildlife Council	1531.03 - 1531.05	81184
Workers' Compensation Board of Directors Nominating Committee	4121.123	81185

Section 601.51. That existing Section 4 of Sub. S.B. 171 of the 129th General Assembly is hereby repealed. 81186 81187

Section 601.55. That Section 701.10 of Sub. S.B. 312 of the 129th General Assembly be amended to read as follows: 81188 81189

Sec. 701.10. Notwithstanding any contrary provision in section 105.41 of the Revised Code or in any rule or procedure adopted by the Capitol Square Review and Advisory Board, the Board 81190 81191 81192

shall designate, not later than October 1, 2012, a prominent place on the lawn or other outside grounds of Capitol Square for the erection of a permanent memorial to victims of The Holocaust (1933-1945) and to those Ohioans who participated in the liberation of the death camps during World War II. The Ohio Arts Council and the Board shall work together to invite, accept, and evaluate proposals for the concept, design, and erection of such a memorial, and shall jointly select from among the proposals the memorial to be designed and erected at the place designated by the Capitol Square Review and Advisory Board for that purpose. Site preparation, utility placement, and other ~~preliminary~~ construction activities ~~shall be paid for with public funds. Planning~~, and planning for and designing and erecting the memorial~~,~~ shall be paid for with only private contributions. The Capitol Square Foundation shall accept private contributions for those purposes, and shall deposit the contributions into the Capitol Square Holocaust Memorial Fund.

Section 601.56. That existing Section 701.10 of Sub. S.B. 312 of the 129th General Assembly is hereby repealed.

Section 610.10. That Section 3 of Am. Sub. S.B. 160 of the 121st General Assembly be amended to read as follows:

Sec. 3. Sections 109.57, 109.572, 2950.08, and 2953.32~~, and 3701.881~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 160 of the 121st General Assembly regarding employment of persons who provide direct care to older adults, and sections ~~173.41,~~ 3712.09, 3721.121, and 3722.151 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 160 of the 121st General Assembly, apply only to persons who apply for employment on or after ~~the effective date of this act~~ January 27, 1997.

Section 610.11. That existing Section 3 of Am. Sub. S.B. 160 of the 121st General Assembly is hereby repealed.

Section 620.10. That Section 3 of Am. Sub. S.B. 38 of the 120th General Assembly be amended to read as follows:

Sec. 3. Sections 3301.54, and 5104.09~~, and 5126.28~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 38 of the 120th General Assembly, and sections 109.572, 2151.86, 3301.32, 3301.541, ~~3319.311~~ 3319.39, ~~3701.881,~~ 5104.012, 5104.013, and 5153.111 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 38 of the 120th General Assembly, apply only to persons who apply for employment for a position on or after ~~the effective date of this act~~ October 29, 1993.

Section 620.11. That existing Section 3 of Am. Sub. S.B. 38 of the 120th General Assembly is hereby repealed.

Section 650.10. That Sections 261.10.10, 261.10.20, 261.10.30, 261.10.50, 261.10.60, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 261.20.70, 261.30.50, and 263.10.80 of Am. Sub. H.B. 153 of the 129th General Assembly are hereby repealed.

Section 701.10.10. OHIO STATEHOUSE SAFETY AND SECURITY STUDY

The Capitol Square Review and Advisory Board and the Department of Public Safety jointly shall contract for a study of the safety and security of the Ohio Statehouse complex, including the buildings, parking garage, and grounds. The Board and the Department jointly shall determine with whom to contract. The study shall include recommendations for security protocols while providing for the health, safety, and convenience of those who work in, or visit, the statehouse. The report shall be submitted

to the Capitol Square Review and Advisory Board for action not later than December 1, 2012.

Section 701.23. As used in this section, "political subdivision" has the meaning defined in section 2744.01 of the Revised Code.

The Auditor of State shall establish, operate, and maintain one or more web sites to serve as an online clearinghouse of information about streamlining government operations, collaboration, and shared services to reduce the cost of government in this state. The web site may be developed by the Auditor of State or through the use of outside vendors. Existing web sites may be used if their content conforms to the requirements of this section. In establishing, maintaining, and operating the online clearinghouse web site, the Auditor of State shall:

(A) Use a domain name for the web site that will be easily recognized, remembered, and understood by the users of the web site;

(B) Maintain the web site so that it is fully accessible to and searchable by members of the public at all times;

(C) Not charge a fee to a person who accesses, searches, or otherwise uses the web site;

(D) Compile information provided by political subdivisions that includes savings recommendations from performance audits, examples of shared services among communities, shared services agreements to use as templates, and other tools developed independently by the Auditor of State or requested by political subdivisions and agreed to by the Auditor of State;

(E) Enable political subdivisions to register and request inclusion of their submitted information on the web site, as well

as to report state and local barriers to collaboration;

(F) Enable information to be accessed by key word or other useful identifiers;

(G) Maintain adequate systemic security and back-up features, and develop and maintain a contingency plan for coping with and recovering from power outages, systemic failures, and other unforeseen difficulties; and

(H) Maintain the web site in such a manner that it will not infringe legally protected interests, so that vulnerability of the web site to interruption because of litigation or the threat of litigation is reduced.

Section 701.33. As used in this section, "political subdivision" has the meaning defined in section 2744.01 of the Revised Code.

The Department of Administrative Services, by itself or by contract with another entity, shall establish, operate, and maintain a web site to serve as an online clearinghouse of information about existing joint purchasing programs between or among political subdivisions in the state. In establishing, maintaining, and operating the online clearinghouse web site, the department shall:

(A) Use a domain name for the web site that will be easily recognized, remembered, and understood by the users of the web site;

(B) Maintain the web site so that it is fully accessible to and searchable by members of the public at all times;

(C) Not charge a fee to a person who accesses, searches, or otherwise uses the web site;

(D) Compile information provided by political subdivisions about joint purchasing arrangements they are involved in that the

department verifies, through meetings with various statewide associations and others, to have resulted in verifiable cost savings, and consolidate that information on the web site in a consistent manner;

(E) Enable political subdivisions to register and request inclusion of their submitted information on the web site;

(F) Enable information to be accessed by key word, by program name, by county, by type of product or service, and by other useful identifiers;

(G) Maintain adequate systemic security and back-up features, and develop and maintain a contingency plan for coping with and recovering from power outages, systemic failures, and other unforeseen difficulties; and

(H) Maintain the web site in such a manner that it will not infringe legally protected interests, so that vulnerability of the web site to interruption because of litigation or the threat of litigation is reduced.

The department shall bear the expense of establishing, operating, and maintaining the online clearinghouse web site.

Section 701.41. The Department of Administrative Services shall analyze opportunities to reduce travel expenses through teleconferencing and web conferencing within state government. The Department shall assess current teleconferencing capabilities within state government operations, research industry standards and best practices, and make recommendations that will optimize the use of these technologies. Not later than December 31, 2012, the Department of Administrative Services shall produce a report with its findings and shall deliver the report to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Governor.

Section 701.50. MARCS STEERING COMMITTEE AND STATEWIDE COMMUNICATIONS SYSTEM

There is hereby created a Multi-Agency Radio Communications System (MARCS) Steering Committee consisting of the designees of the Directors of Administrative Services, Public Safety, Natural Resources, Transportation, Rehabilitation and Correction, and Budget and Management, and the State Fire Marshal or the State Fire Marshal's designee. The Director of Administrative Services or the Director's designee shall chair the Committee. The Committee shall provide assistance to the Director of Administrative Services for effective and efficient implementation of the MARCS system as well as develop policies for the ongoing management of the system. Upon dates prescribed by the Directors of Administrative Services and Budget and Management, the MARCS Steering Committee shall report to the Directors on the progress of MARCS implementation and the development of policies related to the system.

Section 701.60. As used in this section, "business day" means a day of the week, excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.

Any regional council of governments that was formed and is operating before the effective date of the amendment by this act of section 167.04 of the Revised Code shall notify the Auditor of State of its existence within 30 business days after the effective date of that amendment, and shall provide on a form prescribed by the Auditor of State the information required under that section. The Auditor of State shall review the information and, within one year after the effective date of that amendment, shall issue a report to the Governor and the General Assembly. The report shall address how many regional councils of governments are operating under Chapter 167. of the Revised Code, whether those regional

councils continue to meet the objectives for which regional councils were first authorized in 1967, and whether regional councils are an efficient and effective way for local governments to share services or to participate in cooperative arrangements.

Section 701.70.10. (A) The construction and energy operations of the Office of the State Architect and Engineer (OSAE) under Chapters 123. and 153. are transferred and consolidated into the construction and capital funding operations of the Ohio Facilities Construction Commission (OFCC). And the Ohio School Facilities Commission (OSFC) becomes an independent agency within the Ohio Facilities Construction Commission. Notwithstanding Chapter 153. of the Revised Code, the OFCC is thereupon and thereafter successor to, assumes the power and obligations of, and otherwise constitutes the continuation of the construction and energy operations and related management functions of the OSAE as provided in the applicable sections of Chapter 153. of the Revised Code or in any agreements relating to capital expenditures for construction operations functions to which the OSAE is a party. All statutory references to the OSAE are deemed to be references to the OFCC.

(B) Any activities relating to the operations and related management functions commenced but not completed by the OSAE shall be completed by the OFCC in the same manner and with the same effect as if completed by the OSAE. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the consolidation, and shall be administered by the OFCC. All rules, orders, and determinations related to design, planning, and construction and energy operations and related management functions of the OSAE continue in effect as rules, orders, and determinations of the OFCC, until modified or rescinded by the OFCC. The Director of the Legislative Service Commission shall renumber the OSAE rules related to the design,

planning, and construction and energy operations and related management functions to reflect their transfer to the OFCC.

(C) To the extent possible, all employees of the OSAE shall be transferred to the OFCC, as the OFCC determines to be necessary for the successful implementation of this section. All employees of the OSFC shall remain in their current classifications unless the OFCC determines otherwise.

(D) No judicial or administrative action or proceeding, to which the OSAE or an authorized officer of either is a party, that is pending on the effective date of this section, or on such later date as may be established by an authorized officer of the OFCC and that is related to its construction, capital funding, or energy operation or related management functions, is affected by the transfer and consolidation of functions. Any such action or proceeding shall be prosecuted or defended in the name of the OFCC. On application to the court or agency, the OFCC shall be substituted for the OSAE or an authorized officer of either as a party to the action or proceeding.

(E) Notwithstanding any provision of the law to the contrary, and not sooner than 90 days after the effective date of this section, and if requested by the OFCC, the Director of Budget and Management shall make budget changes made necessary by the transfer, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, and the consolidation of funds, as authorized by this section. The Director of Budget and Management may, if necessary, establish encumbrances or parts of encumbrances created in fiscal years 2012 and 2013 in the appropriate fund and appropriation item for the same purpose and for payment to the same vendor in fiscal year 2013. The established encumbrances plus any additional amounts determined to be necessary for the OFCC to perform the construction, energy, and capital funding operation and related

management functions of the OSAE are hereby appropriated.

(F) Not later than 30 days after the transfer and consolidation of the construction, energy, and capital funding operations and related management functions of the OSAE to the OFCC, an authorized officer of the OSAE shall certify to the OFCC the unexpended balance and location of any funds and accounts designated for building and facility operation and management functions, and the custody of such funds and accounts shall be transferred to the OFCC.

(G) The OFCC and the Department of Natural Resources (DNR) shall cooperate in a study to determine which operation functions, if any, of the DNR Division of Engineering should be integrated and consolidated into the OFCC. The study shall be completed not later than December 31, 2012.

Section 701.70.20. The Division of Labor in the Department of Commerce is hereby renamed the Division of Industrial Compliance on the effective date of section 121.04 of the Revised Code, as amended by this act. The Division and the Superintendent of Industrial Compliance shall have and perform all the duties, powers, and obligations of the Division and Superintendent of Labor. All rules, actions, determinations, commitments, resolutions, decisions, and agreements pertaining to the duties, powers, obligations, functions, and rights of the Division or Superintendent of Labor, in force or in effect on the effective date of section 121.04 of the Revised Code, as amended by this act, shall continue in force and effect and apply to the Division or Superintendent of Industrial Compliance as applicable and subject to any further lawful action thereon by the Division or Superintendent of Industrial Compliance. Wherever the Superintendent of Labor or Division of Labor are referred to in any provision of law, or in any agreement or document that

pertains to those duties, powers, obligations, functions, and rights, the reference is to the Superintendent of Industrial Compliance or Division of Industrial Compliance, as appropriate.

All authorized obligations and supplements thereto of the Superintendent and Division of Labor are binding on the Superintendent or Division of Industrial Compliance and nothing in this act impairs those obligations or rights or the obligations or rights under any contract. The renaming of the Division of Labor and Superintendent of Labor does not affect the validity of agreements or obligations made by that superintendent or division pursuant to Chapters 121., 3703., 3781., 3791., 4104., 4105., and 4740. of the Revised Code or any other provisions of law.

In connection with the renaming of the Division of Labor, all real property and interest therein, documents, books, money, papers, records, machinery, furnishings, office equipment, furniture, and all other property over which the Superintendent and Division of Labor have control and the rights of the Superintendent and Division of Labor to enforce or receive any of those is automatically transferred to the Superintendent and Division of Industrial Compliance without necessity for further action on the part of the Superintendent or Division of Industrial Compliance, or the Director of Commerce. Additionally, all appropriations or reappropriations made to the Superintendent and Division of Labor for the purposes of the performance of their duties, powers, and obligations, are transferred to the Superintendent and Division of Industrial Compliance to the extent of the remaining unexpended or unencumbered balance thereof, whether allocated or unallocated, and whether obligated or unobligated.

Section 701.111. The new filing requirements applicable to persons who are elected or appointed to, or who are candidates

for, an office of a township with a population of five thousand or more under section 102.02 of the Revised Code, as amended by this act, first apply to 2011 statements required to be filed by persons who are candidates for or serving in a township office in calendar year 2012, which shall be filed not later than ninety days after the effective date of this section.

Section 701.121. (A) The state of Ohio requests that the Joint Committee on the Library of Congress approve the replacement of Ohio's statue of Governor William Allen in the National Statuary Hall Collection with a statue of Thomas Edison.

(B) In accordance with the Procedure for Replacement of Statues in the National Statuary Hall Collection, Ohio submits the following information for consideration by the Joint Committee on the Library of Congress:

(1) Thomas Edison, a native of Milan, Ohio, was a world famous inventor and highly successful businessperson whose inventions, such as the phonograph, the kinetoscope (a precursor to the film projector), and the first practical incandescent light bulb, have had a tremendous impact on the world. In addition to these inventions, Thomas Edison's service to the United States Government has also impacted world history. During World War I, he consulted for the government, examining inventions submitted for military use and working on defensive devices for submarines and ships. For his service, he eventually was awarded a Distinguished Service Medal by the Department of the Navy. By the time of his death, he had received over one thousand patents.

Thomas Edison also has had a significant impact on the state of Ohio. He established the Edison Steel Company in Cleveland, Ohio, and established one of the first electric power stations in Tiffin, Ohio. His General Electric Company established the first industrial park in Ohio, which has employed hundreds of thousands

of people over time. And the Ohio Department of Development sponsors The Thomas Edison Award, which was established in partnership with the Edison Birthplace Museum in Milan, Ohio. The Edison Birthplace Museum also has been instrumental in the issuance of a Thomas Edison stamp and commemorative silver dollar, and has received, on Thomas Edison's behalf, a posthumously awarded GRAMMY Award.

Thomas Edison's impact on the world, and, in particular, on the state of Ohio, through his inventions, business endeavors, and government service, merits inclusion of a statue of him in the National Statuary Hall Collection.

(2) The Ohio Statuary Hall Commission, a nonprofit Ohio corporation, was established in 2009 for the purpose of assisting with the process of recommending an Ohio citizen for statuary representation in the National Statuary Hall Collection, including raising funds and providing financial support for that effort. If the Joint Committee on the Library of Congress approves this replacement statue request, the Commission shall be responsible for the selection of a sculptor for the Thomas Edison statue as well as for paying all costs incurred for placing the Thomas Edison statue in the United States Capitol, including costs incurred for all of the following:

(a) Paying the sculptor;

(b) Carving or casting the statue;

(c) Creating a pedestal and any inscription;

(d) Transporting the statue and pedestal to the United States Capitol;

(e) Removing and transporting the replaced statue;

(f) Temporarily erecting the new statue in the Rotunda of the Capitol for the unveiling ceremony;

(g) Expenses related to the unveiling ceremony; and

(h) Any other expenses that the Ohio Statuary Hall Commission finds it to be necessary to incur.

(C) As required by the Procedure for Replacement of Statues in the National Statuary Hall Collection, the Governor shall submit to the Architect of the Capitol a copy of this act, along with a letter from the Governor, requesting approval from the Joint Committee on the Library of Congress to replace Ohio's statue of Governor William Allen in the National Statuary Hall Collection with a statue of Thomas Edison.

Section 701.131. The amendment by this act to sections 107.54 and 119.032 and the enactment by this act of section 119.033 of the Revised Code apply to a rule that is subjected to review under section 119.032 of the Revised Code on or after January 1, 2013. The amendment by this act to sections 107.54 and 119.032 and the enactment by this act of section 119.033 of the Revised Code do not apply to a rule the review of which under section 119.032 of the Revised Code is pending on January 1, 2013. Prior law continues to apply to these proposed rules and to these rules until the rule-making or the review proceedings are completed.

Section 707.10. For fiscal years 2013 and 2014, the legislative authority of a municipal corporation in a county, with a population between three hundred seventy-five thousand and four hundred thousand according to the most recent federal decennial census, may conduct a pilot program whereby the legislative authority may use up to five per cent of the aggregate amount of money deposited in the municipal corporation's sewer fund and up to five per cent of the aggregate amount of money deposited in a fund created by the municipal corporation for water-works for the

purpose of extending the municipal corporation's water or sewerage system, as applicable, if both of the following apply:

(A) The water or sewerage system is being extended to areas for economic development purposes.

(B) The areas into which the water or sewerage system is being extended are the subject of a cooperative economic development agreement entered into by the municipal corporation under section 701.07 of the Revised Code.

With regard to either fund, the legislative authority shall not exceed the five per cent limit established in this section.

Section 709.11. Upon the expiration of the term of a member who is serving on the Ohio Grape Industries Committee created in section 924.51 of the Revised Code immediately prior to the effective date of this act, the Director of Agriculture shall appoint a member for a new term in accordance with that section as amended by this act.

Section 733.05. Not later than ninety days after the effective date of this section, the Ohio Board of Regents shall complete a review of each entity that held the Department of Insurance's designation under section 3305.03 of the Revised Code immediately prior to the effective date of this act. In conducting the review, the Board shall comply with the applicable requirements of sections 3305.03 and 3305.031 of the Revised Code, as amended and enacted by this act.

Section 733.10. (A) This section applies to a state university, as defined in section 3345.011 of the Revised Code, that has a main campus subsidy-eligible undergraduate enrollment of more than 17,000 but less than 22,000 students for fiscal year 2012.

(B) Notwithstanding section 3313.41 of the Revised Code, when a school district board of education decides to dispose of real property that the board owns in its corporate capacity, exceeds in value ten thousand dollars, and is located within one hundred yards of any classroom or administrative building on the main campus of the state university as described in division (A) of this section, prior to offering that property for sale under divisions (A) to (G) of section 3313.41 of the Revised Code, the board may offer that property to the board of trustees of the state university in either or both of the following manners:

(1) In an "as is" condition in return for an agreement between the board of trustees and the school district board, under which the university will provide the school district with in-kind services, educational programs, or other assistance valued in the aggregate in an amount reasonably related to the appraised fair market value of the property;

(2) For sale for money at a price that is not higher than the appraised fair market value of that property.

(C) If the board of trustees does not accept either offer, or if the agreement is not entered into between the school district board and the board of trustees, within sixty days after the offer is made by the district board, the district board then shall offer the property for sale as provided in division (G) of section 3313.41 of the Revised Code.

(D) This section expires on December 31, 2012.

Section 737.10. ABOLISHMENT OF THE PUBLIC HEALTH COUNCIL

On the effective date of this section, the Public Health Council is abolished and the responsibilities of the Public Health Council are transferred to the Director of Health.

Any business before the Public Health Council commenced but

not completed before the effective date of this section shall be completed by the Director of Health. The business shall be completed in the same manner, and with the same effect, as if completed by the Director of Health immediately prior to the effective date of this section.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of this act's abolishment of the Public Health Council and transfer of responsibility to the Director of Health. Each such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the Director of Health.

All rules, orders, and determinations of the Public Health Council adopted or made immediately prior to the effective date of this section shall continue in effect as rules, orders, and determinations of the Director of Health until modified or rescinded by the Director of Health. If necessary to ensure the integrity of the numbering system of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules to reflect the transfer of the Public Health Council's responsibilities to the Director of Health.

Any action or proceeding that is related to the functions or duties of the Public Health Council pending on the effective date of this section is not affected by the transfer and shall be prosecuted or defended in the name of the Director of Health. In all such actions and proceedings, the Director of Health, on application to the court, shall be substituted as a party.

Section 737.20. (A) On the effective date of the amendment of the statutes governing the Division of Recycling and Litter Prevention in the Department of Natural Resources by this act or on July 1, 2012, whichever is later, the Division of Recycling and Litter Prevention is abolished, and all of its functions, together

with its assets and liabilities, are transferred from within the Department of Natural Resources to within the Environmental Protection Agency.

(B) Any business commenced but not completed by the Division of Recycling and Litter Prevention in the Department of Natural Resources on the effective date of the transfer shall be completed by the Environmental Protection Agency. Any validation, cure, right, privilege, remedy, obligation, or liability is not lost or impaired solely by reason of the transfer required by this section and shall be administered by the Environmental Protection Agency in accordance with this act.

(C) All of the rules, orders, and determinations of the Division of Recycling and Litter Prevention in the Department of Natural Resources or of the Department of Natural Resources in relation to that Division continue in effect as rules, orders, and determinations of the Environmental Protection Agency until modified or rescinded by the Environmental Protection Agency. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber rules of the Department of Natural Resources in relation to the former Division of Recycling and Litter Prevention in that Department to reflect the transfer to the Environmental Protection Agency.

(D) Subject to the provisions of the applicable bargaining unit agreements, all of the positions of the Division of Recycling and Litter Prevention in the Department of Natural Resources are transferred to the Environmental Protection Agency. Employees who transfer with the positions shall retain their same or substantially similar positions and all the benefits accruing thereto. Upon completion of the transfer, the employees shall be subject to the policies and procedures of the Environmental

Protection Agency.

(E) Whenever the Division of Recycling and Litter Prevention in the Department of Natural Resources or the Chief of the Division of Recycling and Litter Prevention is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Environmental Protection Agency or to the Director of Environmental Protection, whichever is appropriate in context.

(F) Any action or proceeding pending on the effective date of the amendment of the statutes governing the Division of Recycling and Litter Prevention by this act is not affected by the transfer of the functions of that Division by this act and shall be prosecuted or defended in the name of the Environmental Protection Agency. In all such actions and proceedings, the Environmental Protection Agency, upon application to the court, shall be substituted as a party.

Section 737.30. The Recycling and Litter Prevention Advisory Council created within the Environmental Protection Agency by section 3736.04 of the Revised Code, as amended and renumbered by this act, is a continuation of the Recycling and Litter Prevention Advisory Council created within the Division of Recycling and Litter Prevention in the Department of Natural Resources by section 1502.04 of the Revised Code prior to its amendment and renumbering by this act.

Section 737.40. (A) As used in this section:

(1) "Food service operation," "retail food establishment," and "vending machine location" have the same meanings as in section 3717.01 of the Revised Code.

(2) "Micro market" means an area or room that has displays of not more than two hundred fifty linear feet that offer either of the following:

(a) Prepackaged foods that are not time- or temperature-controlled for food safety purposes;

(b) Prepackaged foods that are refrigerated or frozen and time- or temperature-controlled for food safety purposes and that are stored in equipment that complies with Chapter 3717-1 of the Administrative Code.

(B) Until the Director of Agriculture adopts rules under section 3717.04 of the Revised Code governing the licensure of micro markets, the operation of a micro market is exempt from the licensure requirements for retail food establishments, food service operations, and vending machine locations established under Chapter 3717. of the Revised Code. This division applies to a micro market that was previously exempted under division (B)(5) of section 3717.22 of the Revised Code by the Director from being licensed as a retail food establishment.

(C) Not later than sixty days following the adoption of rules by the Director under section 3717.04 of the Revised Code governing the licensure of micro markets, the operator of a micro market shall apply for a license in accordance with those rules.

Section 737.50. Not later than 30 days after the amendment by this act of section 3791.11 of the Revised Code takes effect, the Treasurer of State shall give written notice to each property owner or lessee who, under former division (D) of that section, deposited money or a surety or government-issued bond with the Treasurer of State that the money will be refunded or the bond will be released within the following time period, and that the property owner or lessee must file a bond in the manner required by division (C) of section 3791.11 of the Revised Code immediately after the refund or release:

(A) If money was deposited, the Treasurer of State will refund the money to the property owner or lessee within 180 days

after the effective date of section 3791.11 of the Revised Code, as amended by this act;

(B) If a surety bond was deposited, the Treasurer of State will release the bond to the property owner or lessee upon the earlier of the expiration of the bond or within two years after the effective date of section 3791.11 of the Revised Code, as amended by this act;

(C) If a government-issued bond was deposited, the Treasurer of State will release the bond to the property owner or lessee within 180 days after the effective date of section 3791.11 of the Revised Code, as amended by this act.

Section 737.60. LUPUS EDUCATION AND AWARENESS PROGRAM

(A) In establishing the Lupus Education and Awareness Program under sections 3701.77 to 3701.775 of the Revised Code, as enacted by this act, the General Assembly hereby finds the following:

(1) Lupus is a serious, complex, and debilitating autoimmune disease that can cause inflammation and tissue damage to virtually any organ system in the body, including the skin, joints, other connective tissue, blood and blood vessels, heart, lungs, kidneys, and brain.

(2) The Lupus Foundation of America, Inc., estimates that approximately 1.5 to 2 million Americans live with lupus.

(3) According to the Centers for Disease Control and Prevention, the rate of lupus mortality has increased since the late 1970s.

(4) The pain and fatigue associated with lupus can threaten the ability to live independently, maintain employment, and lead a normal life. One in five individuals with lupus is disabled by the disease, and consequently receives support from government programs, including Medicare, Medicaid, Social Security

Disability, and Social Security Supplemental Income.

(5) The estimated average annual cost of medical treatment for an individual with lupus is between $10,000 and $30,000; for individuals who have the most serious form of lupus, medical costs can greatly exceed this amount, causing a significant economic, emotional, and social burden to the entire family and society.

(6) More than half of individuals with lupus suffer four or more years and visit three or more physicians before obtaining a diagnosis of lupus; early diagnosis of and treatment for lupus can prevent or reduce serious organ damage, disability, and death.

(7) Despite the magnitude of lupus and its impact on individuals and families, health professional and public understanding of lupus remains low; only one in five Americans can provide basic information about lupus, and awareness of lupus is lowest among adults 18 to 34 years of age - the age group most likely to develop lupus.

(8) Lupus is a significant national health issue that deserves a comprehensive and coordinated response by state and federal governments with involvement of the health care provider, patient, and public health communities.

(B) The purpose of sections 3701.77 to 3701.775 of the Revised Code, as enacted by this act, is to create a multi-pronged, statewide program to promote public and health professional awareness and increase knowledge concerning the causes and consequences of lupus, the importance of early diagnosis and appropriate management, and effective treatment and management strategies by all of the following:

(1) Conducting educational and training programs for health professionals on lupus diagnosis and management;

(2) Developing and disseminating educational materials and information to patients and health professionals on lupus research

results and health care services available;

(3) Designing and implementing a statewide public education campaign aimed at heightening public awareness of lupus;

(4) Leveraging educational and training resources and services previously developed by organizations with appropriate expertise and knowledge of lupus.

Section 737.70. PILOT PROGRAM FOR OPIOID- AND ALCOHOL-DEPENDENT OFFENDERS

(A) The Department of Alcohol and Drug Addiction Services shall conduct a pilot program to provide to certain opioid-dependent, alcohol-dependent, or opioid- and alcohol-dependent offenders within the criminal justice system treatment to prevent relapse into dependency, including medication-assisted treatment. The medication-assisted treatment shall be provided by using one or more drugs that constitute long-acting antagonist therapy and meet all of the following conditions:

(1) There is no potential for abuse of the drugs by the person to whom they are given or through diversion of the drugs to others.

(2) There is no potential for a person to become addicted to or otherwise dependent on the drugs.

(3) The drugs have been approved by the United States Food and Drug Administration to prevent relapse into opioid dependency, alcohol dependency, or opioid and alcohol dependency.

(B) The Department shall conduct the program in Franklin County and Scioto County and may conduct the program in any one or more other counties the Department selects. In conducting the program, the Department shall collaborate with the boards of alcohol, drug addiction, and mental health services that serve the

counties included in the program. The Department also shall collaborate with the Departments of Mental Health, Job and Family Services, and Health and with any other state agency that the Department determines may be of assistance in accomplishing the objectives of the program.

(C) The program shall serve not more than one hundred fifty opioid-dependent or alcohol-dependent offenders selected by the Department, each of whom meets all of the following criteria:

(1) Is either being released from a community-based correctional facility or being diverted from prosecution under section 2935.36 of the Revised Code by a county drug court or municipal court;

(2) Is transitioning to community-based programs as prescribed by the court;

(3) Was opioid dependent, alcohol dependent, or opioid and alcohol dependent at the time of committing the offense for which the offender was most recently sentenced;

(4) Resides in this state and in the offender's own court-approved residence or court-approved transitional housing.

(D) A program participant shall do both of the following:

(1) Commit to participate in the program for twelve months and comply with all requirements established by the program, sentencing court, and treatment providers, including testing, counseling, medication therapies, and reporting requirements;

(2) Attend any on-site programming specified by the sentencing court or treatment provider.

(E) Treatment under the program shall be provided by an alcohol and drug addiction program certified by the Department under section 3793.06 of the Revised Code. Treatment shall be based on an integrated service delivery model. The treatment

provider shall do all of the following:

(1) Conduct a professional, comprehensive substance abuse and mental health diagnostic assessment of each person who is a potential program participant to determine whether the person is opioid dependent, alcohol dependent, or opioid and alcohol dependent and would benefit from substance abuse treatment and monitoring to address the dependency;

(2) Determine treatment needs for each program participant based on the diagnostic assessment;

(3) Develop individualized goals and objectives for each program participant that follow guidelines provided by the Department;

(4) Provide initial treatment to each program participant by persons professionally qualified to provide substance abuse counseling or treatment;

(5) Provide substance abuse and co-occurring disorder treatment that includes psychosocial therapies and monthly medication-assisted treatment;

(6) Provide access to long-acting antagonist therapies to the same extent that access may be provided to any other medication-assisted treatment approved by the United States Food and Drug Administration;

(7) Monitor program compliance through regular urinalysis drug testing.

(F) Not later than three months after the program has ended, Kent State University shall prepare a report of the findings obtained from the program, along with its recommendations, if any. The University shall include in the report data derived from the drug testing performed under the program. In preparing the report, the University shall obtain assistance from the Department of

Alcohol and Drug Addition Services. When the report is complete, the University shall submit the report to the Governor; President of the Senate; Speaker of the House of Representatives; Departments of Mental Health, Job and Family Services, and Health; and any other agency the Department collaborates with in conducting the program.

Section 737.81. (A) As used in this section, "source separated recyclable material" includes any material such as paper, cardboard, metal, glass, plastic, or similar material that is segregated by the producer or generator of the material in order to reuse or recycle the material.

(B) On and after the effective date of this section through December 31, 2013, the board of county commissioners or board of directors of a solid waste management district shall not do any of the following:

(1) Designate any new facilities or activities for the collection or processing of source separated recyclable material;

(2) Exercise rulemaking authority to require source separated recyclable material to be delivered to one or more specified facilities;

(3) Enter into any new contract for the collection of source separated recyclable material that requires the material to be delivered to one or more specified facilities.

Any designations, rules, or contracts existing on the effective date of this section shall remain in effect and, with respect to contracts, may be renewed.

(C) On and after the effective date of this section through December 31, 2013, the board of county commissioners or board of directors of a solid waste management district proposing to construct a new recycling processing facility on land owned by the

district or operate a new recycling processing facility shall do so only through a competitive selection process, including competitive bidding or competitive proposals.

Section 737.91. It is expected that the Futures Committee of the Ohio Association of Health Commissioners will release a report in June 2012 that evaluates the status of public health services in the state and offers ideas for the future role of boards of health and health districts in the state. The Legislative Committee on Public Health Futures shall review the Future Committee's report, and, on the basis of its review, recommend legislative and fiscal policies. The policy recommendations shall be considered for inclusion in the fiscal year 2013-2014 operating budget. The Legislative Committee, not later than October 31, 2012, shall prepare a report that describes its review of the Future Committee's report, and that states, and provides explanations of, its policy recommendations. The Legislative Committee shall transmit a copy of its report to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the chairpersons of the committees of the Senate and House of Representatives that will consider the public health phase of the 2013-2014 operating budget. Upon transmitting its report, the Legislative Committee ceases to exist.

There is the Legislative Committee on Public Health Futures. Each of the following associations shall appoint one individual to the Legislative Committee: the County Commissioners Association of Ohio, the Ohio Township Association, the Department of Health, the Association of Ohio Health Commissioners, the Ohio Public Health Association, the Ohio Environmental Health Association, the Ohio Boards of Health Association, the Ohio Municipal League, and the Ohio Hospital Association. The President and Minority Leader of the Senate each shall appoint one member of the Senate to the

Legislative Committee. The Speaker and Minority Leader of the House of Representatives each shall appoint one member of the House of Representatives to the Legislative Committee. Appointments shall be made as soon as possible but not later than thirty days after the effective date of this section. Vacancies on the Legislative Committee shall be filled in the same manner as the original appointment.

As soon as all members have been appointed to the Legislative Committee, the President of the Senate shall fix a time and place for the committee to hold its first meeting. At that meeting, the committee shall elect from among its membership a chairperson, a vice-chairperson, and a secretary. The Director of Health shall provide the Legislative Committee with meeting and office space, equipment, and professional, technical, and clerical staff as are necessary to enable the Legislative Committee successfully to complete its work.

Section 747.10.10. (A) The Manufactured Homes Commission shall adopt the rules required by section 4781.26 of the Revised Code as amended by this act not later than December 1, 2012. After adopting the rules, the Commission immediately shall notify the Director of Health.

(B)(1) The rules governing manufactured home parks adopted by the Public Health Council under former section 3733.02 of the Revised Code shall remain in effect in a health district until the Commission adopts rules under section 4781.26 of the Revised Code as amended by this act.

(2) On the effective date of the rules adopted by the Commission as required by section 4781.26 of the Revised Code as amended by this act, the Public Health Council rules adopted under former section 3733.02 of the Revised Code cease to be effective within the jurisdiction of that board of health.

(C) No board of health of a city or general health district shall invoice or collect manufactured home park licensing fees for calendar year 2013.

(D) As used in this section:

(1) "Manufactured home park," "board of health," and "health district" have the same meanings as in section 4781.01 of the Revised Code, as amended by this act.

(2) "Public Health Council" means the Public Health Council created by section 3701.33 of the Revised Code.

Section 747.10.20. Any manufactured home park license and inspection fees collected pursuant to former section 3733.04 of the Revised Code by a board of health prior to the transition of the annual license and inspection program to the Manufactured Homes Commission as required under this act in the amount of two thousand dollars or less may be transferred to the health fund of the city or general health district. Any of those funds in excess of two thousand dollars shall be transferred to the Manufactured Homes Commission Regulatory Fund created in section 4781.54 of the Revised Code as enacted by this act.

Section 747.10.30. Notwithstanding the original term of the appointment, the term of the Manufactured Homes Commission member who was appointed by the Governor as a representative of the Department of Health pursuant to division (B)(2)(b) of section 4781.02 of the Revised Code shall end on the effective date of that section as amended by this act. The initial term of the registered sanitarian appointed to the Manufactured Homes Commission pursuant to section 4781.02 of the Revised Code, as amended by this act, shall expire on the date when the representative of the Department of Health's term would have expired, but for this section.

Section 747.20.10. On the effective date of the amendments made to section 4765.02 of the Revised Code by this act, the member of the renamed State Board of Emergency Medical, Fire, and Transportation Services who is an administrator of an adult or pediatric trauma center shall cease to be a member of the Board. On the effective date of the amendments made to section 4765.02 of the Revised Code by this act, the member of the renamed State Board of Emergency Medical, Fire, and Transportation Services who is a member of the Ohio Ambulance Association shall cease to be a member of the Board. On the effective date of the amendments made to section 4765.02 of the Revised Code by this act, the member of the renamed State Board of Emergency Medical, Fire, and Transportation Services who is a physician certified by the American board of surgery, American board of osteopathic surgery, American osteopathic board of emergency medicine, or American board of emergency medicine, is chief medical officer of an air medical agency, and is currently active in providing emergency medical services shall cease to be a member of the Board. On the effective date of the amendments made to section 4765.02 of the Revised Code by this act, of the members of the renamed State Board of Emergency Medical, Fire, and Transportation Services who were EMTs, advanced EMTs, or paramedics and were appointed to the Board in that capacity, only the members who are designated by the Governor to continue to be members of the Board shall continue to be so; the other persons shall cease to be members of the Board. On the effective date of the amendments made to section 4765.02 of the Revised Code by this act, the member of the renamed State Board of Emergency Medical and Transportation Services who is a registered nurse and is in the active practice of emergency nursing shall cease to be a member of the Board. Not later than sixty days after the effective date of those amendments, the Governor shall appoint to the renamed State Board of Emergency

Medical and Transportation Services a registered nurse with EMS certification who is in the active practice of critical care nursing. The Governor shall appoint this member from among three persons nominated by the Ohio Nurses Association, three persons nominated by the Ohio Association of Critical Care Transport, and three persons nominated by the Ohio State Council of the Emergency Nurses Association.

On the effective date of the amendments made to section 4765.02 of the Revised Code by this act, all members of the former State Board of Emergency Medical Services who do not cease to be members of the renamed State Board of Emergency Medical, Fire, and Transportation Services by the terms of this act shall continue to be members of the renamed State Board of Emergency Medical, Fire, and Transportation Services, and the dates on which the terms of the continuing members expire shall be the dates on which their terms as members of the former State Board of Emergency Medical Services expired. On the effective date of the amendments made to section 4765.02 of the Revised Code by this act, the following members of the former Ohio Medical Transportation Board shall become members of the State Board of Emergency Medical, Fire, and Transportation Services, and the dates on which those members' terms on the State Board of Emergency Medical, Fire, and Transportation Services expire shall be as follows:

(A) The person who owns or operates a private emergency medical service organization operating in this state, as designated by the Governor, term ends November 12, 2012;

(B) The person who owns or operates a nonemergency medical service organization that provides only ambulette services, term ends November 12, 2012;

(C) The person who is a member of the Ohio Association of Critical Care Transport and represents air-based services, term

ends November 12, 2013.

(D) The person who is a member of the Ohio Association of Critical Care Transport and represents a ground-based mobile intensive care unit organization, term ends November 12, 2013.

All subsequent terms of office for these six positions on the State Board of Emergency Medical, Fire, and Transportation Services shall be for three years as provided in section 4765.02 of the Revised Code.

Section 747.20.20. TRANSFER OF THE MEDICAL TRANSPORTATION BOARD TO THE DEPARTMENT OF PUBLIC SAFETY

On July 1, 2012, the Medical Transportation Board and all of its functions are transferred to the Department of Public Safety. As of such date, the Medical Transportation Board shall operate under the Department of Public Safety, which shall assume all of the Board's functions. All assets, liabilities, any capital spending authority related thereto, and equipment and records, regardless of form or medium, related to the Medical Transportation Board's functions are transferred to the Department of Public Safety on July 1, 2012.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer. All of the Medical Transportation Board's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Department of Public Safety until modified or rescinded by the Department of Public Safety.

Subject to the lay-off provisions of sections 124.321 to 124.328 of the Revised Code, all employees of the Medical Transportation Board are transferred to the Department of Public Safety and shall retain their positions and all benefits accruing thereto.

No action or proceeding pending on July 1, 2012, is affected by the transfer and any action or proceeding pending on July 1, 2012, shall be prosecuted or defended in the name of the Department of Public Safety or its director. In all such actions and proceedings, the Department of Public Safety or its director, upon application to the court, shall be substituted as a party.

On or after July 1, 2012, notwithstanding any provision of law to the contrary, the Director of Budget and Management shall take any action with respect to budget changes made necessary by the transfer. The Director may transfer cash balances between funds. The Director may cancel encumbrances and reestablish encumbrances or parts of encumbrances as needed in the fiscal year in the appropriate fund and appropriation item for the same purpose and to the same vendor. As determined by the Director, encumbrances reestablished in the fiscal year in a different fund or appropriation item used by an agency or between agencies are appropriated. The Director shall reduce each year's appropriation balances by the amount of the encumbrance canceled in their respective funds and appropriation item. Any unencumbered or unallocated appropriation balances from the previous fiscal year may be transferred to the appropriate appropriation item to be used for the same purposes, as determined by the Director. Any such transfers are hereby appropriated.

Section 747.31. A licensee whose license is in a voluntary hold status under Chapter 4735. of the Revised Code on the effective date of this section may apply to the Superintendent of the Division of Real Estate and Professional Licensing for reactivation of the license in accordance with rules adopted by the Ohio Real Estate Commission or may apply to place the license in a resigned status within the ninety-day period after the effective date of this section. The license of a licensee who does not reactivate or resign a license that is in a voluntary hold

status on the effective date of this section shall be automatically suspended. A suspended license may be reactivated within twelve months of the date of suspension, provided that the renewal fee plus a penalty fee of fifty per cent of the renewal fee is paid to the Superintendent. Failure to reactivate the suspended license within twelve months as provided in this section shall result in automatic revocation of the license without the taking of any action by the Superintendent.

Section 751.03. TRANSFER OF MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM

(A) Notwithstanding the amendments made by this act to section 5111.01 of the Revised Code:

(1) The Office of Medical Assistance shall not replace the Department of Job and Family Services as the single state agency to supervise the administration of Medicaid until the replacement is approved by the United States Centers for Medicare and Medicaid Services if such approval is needed.

(2) A contract regarding Medicaid or the Children's Health Insurance Program that is in effect on the effective date of this section shall continue to be operated in accordance with the contract's terms until the contract is amended, expires, or is terminated.

(B) Subject to division (A)(1) of this section:

(1) The Office of Medical Assistance is responsible for entering into contracts regarding Medicaid and the Children's Health Insurance Program on or after the effective date of this section.

(2) Any rules of the Department of Job and Family Services regarding Medicaid or the Children's Health Insurance Program that are in effect on the effective date of this section are hereby

rules of the Office of Medical Assistance and the Medical Assistance Director may amend or rescind the rules in a manner consistent with the statutes that authorize the rules.

(C) The Director of Job and Family Services and Medical Assistance Director shall collaborate as necessary to provide for the Office of Medical Assistance to assume the Department of Job and Family Services' duties and authorities regarding Medicaid and the Children's Health Insurance Program.

(D) It is the General Assembly's intent to amend the laws governing Medicaid and the Children's Health Insurance Program to replace references to the Director of Job and Family Services with references to the Medical Assistance Director and to replace references to the Department of Job and Family Services with references to the Office of Medical Assistance as appropriate in the context of transferring authority for those programs from the Department of Job and Family Services to the Office of Medical Assistance.

Section 751.05. FISCAL YEAR 2013 QUALITY BONUS PAYMENTS TO NURSING FACILITIES

(A) As used in this section:

(1) "Medicaid days," "nursing facility," and "provider" have the same meanings as in section 5111.20 of the Revised Code.

(2) "Point days" means the product of the following:

(a) A qualifying nursing facility's quality bonus points for fiscal year 2013;

(b) The number of the qualifying nursing facility's Medicaid days in fiscal year 2012.

(3) "Qualifying nursing facility" means a nursing facility that qualifies for a quality bonus for fiscal year 2013 as determined under division (C) of this section.

(4) "Quality bonus points" means the amount determined by subtracting five from the number of points awarded to a qualifying nursing facility under division (C) of section 5111.244 of the Revised Code for fiscal year 2013.

(B) In addition to the quality bonuses, if any, to be paid to nursing facilities in accordance with section 5111.245 of the Revised Code for fiscal year 2013, quality bonuses also shall be paid to nursing facilities in accordance with this section for fiscal year 2013.

(C) Not later than July 31, 2012, the Department of Job and Family Services shall pay a nursing facility provider a quality bonus for fiscal year 2013 if the provider's nursing facility is awarded more than five points under division (C) of section 5111.244 of the Revised Code for fiscal year 2013 and at least one of the points is awarded to the nursing facility pursuant to division (C)(10), (11), (12), (13), or (14) of that section.

(D) The total quality bonus to be paid to the provider of a qualifying nursing facility for fiscal year 2013 shall equal the product of the following:

(1) The quality bonus per Medicaid day for the fiscal year determined for the provider's qualifying nursing facility under division (E) of this section;

(2) The number of the qualifying nursing facility's Medicaid days in fiscal year 2012.

(E) A qualifying nursing facility's quality bonus per Medicaid day for fiscal year 2013 shall be the product of the following:

(1) The nursing facility's quality bonus points for fiscal year 2013;

(2) The quality bonus per point for fiscal year 2013

determined under division (F) of this section.

(F) The quality bonus per point for fiscal year 2013 shall be determined as follows:

(1) Determine the number of each qualifying nursing facility's point days for fiscal year 2013.

(2) Determine the sum of all qualifying nursing facilities' point days for fiscal year 2013.

(3) Divide thirty million dollars by the sum determined under division (F)(2) of this section.

(G) The calculation of a qualifying nursing facility's bonus payment is not subject to appeal under Chapter 119. of the Revised Code.

(H) The Director of Job and Family Services may adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.

Section 751.10. LICENSURE OF ICFs/MR AS RESIDENTIAL FACILITIES

(A) Until July 1, 2013, a person or government agency that, on the effective date of this section, operates an intermediate care facility for the mentally retarded pursuant to a nursing home license issued under Chapter 3721. of the Revised Code shall not be subject to a penalty under section 5123.99 of the Revised Code for operating the facility without a license issued under section 5123.19 of the Revised Code notwithstanding sections 5123.20 and 5123.99 of the Revised Code.

(B) Notwithstanding the amendments by this act to sections 3702.62, 3721.01, and 5123.19 of the Revised Code and the repeal by this act of section 5123.192 of the Revised Code, an intermediate care facility for the mentally retarded that is licensed as a nursing home under Chapter 3721. of the Revised Code

on the effective date of this section shall continue to be a nursing home for the purposes for which it is considered to be a nursing home under the law in effect on the day immediately preceding the effective date of those amendments and that repeal until the earliest of the following:

(1) The date that the facility's nursing home license is revoked or voided under section 3721.07 of the Revised Code;

(2) The date that a residential facility license is obtained for the facility under section 5123.19 of the Revised Code;

(3) July 1, 2013.

(C) Notwithstanding the amendment by this act to section 3721.21 of the Revised Code, a nursing home or part of a nursing home certified as an intermediate care facility for the mentally retarded on the effective date of this section shall continue to be excluded from the definition of "long-term care facility" in that section for as long as it is certified as an intermediate care facility for the mentally retarded.

(D) Notwithstanding the amendment by this act to section 3721.50 of the Revised Code, a nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded on the effective date of this section shall continue to be exempt from the franchise permit fee under sections 3721.50 to 3721.58 of the Revised Code and instead subject to the franchise permit fee under sections 5112.30 to 5112.39 of the Revised Code for as long as it is certified as an intermediate care facility for the mentally retarded.

(E) Notwithstanding the amendment by this act to section 5123.41 of the Revised Code, a nursing home or part of a nursing home that is certified as an intermediate care facility for the mentally retarded on the effective date of this section shall

continue to be a residential facility for the purpose of section 5123.41 of the Revised Code for as long as it is certified as an intermediate care facility for the mentally retarded or is licensed under section 5123.19 of the Revised Code.

(F) Notwithstanding the amendment by this act to section 5126.51 of the Revised Code, a nursing home or part of a nursing home that is certified as an intermediate care facility for the mentally retarded on the effective date of this section shall continue to be a residential facility for the purpose of section 5126.51 of the Revised Code for as long as it is certified as an intermediate care facility for the mentally retarded or otherwise meets the definition of "residential facility" in section 5123.19 of the Revised Code.

Section 751.10.10. ADULT CARE FACILITY LICENSURE TRANSITION

Pursuant to the amendment and repeal by this act of sections 5119.22, 5119.70 to 5119.88, and 5119.99 of the Revised Code, the Director of Mental Health may convert an adult care facility's license in effect immediately before the effective date of this section to a license as a residential facility. Until the Director converts the license or issues an order denying the conversion, the adult care facility's license is deemed to be a residential facility license. All rules, orders, and determinations pertaining to the adult care facility license continue in effect as rules, orders, and determinations pertaining to the residential facility license.

Section 751.12. TRANSITION FOR CERTIFIED ADULT FOSTER HOMES

Pursuant to the amendment and repeal by this act of sections 5119.22, 5119.692, and 5119.693 of the Revised Code, the Director of Mental Health may convert an adult foster home's certification in effect immediately before the effective date of this section to

a license as a residential facility. Until the Director converts the certification or issues an order denying the conversion, the adult foster home's certification is deemed to be a residential facility license. All rules, orders, and determinations pertaining to the adult foster home's certification continue in effect as rules, orders, and determinations pertaining to the residential facility license.

Section 751.15. AGING IN PLACE PILOT PROGRAM

(A) As used in this section:

(1) "Aging in Place administrator" means the organization that contracts with the Department of Aging pursuant to division (E) of this section to administer the Aging in Place pilot program.

(2) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(3) "Residential facility" means a residential facility as defined in section 5119.22 or a residential facility as defined in section 5123.19 of the Revised Code.

(4) "Veteran" means either of the following:

(a) A former member of the armed forces of the United States who served on active military duty and received an honorable discharge or honorable separation;

(b) A member of the United States army transport service or the United States naval transport service who has an honorable report of separation from the active duty military service, form DD214 or DD215.

(B) The Department of Aging shall establish the Aging in Place pilot program in Butler, Clermont, Hamilton, and Warren counties. Up to one hundred eighty eligible individuals may enroll in the pilot program to receive home repairs and modifications

that are covered by the pilot program. The pilot program shall be operated for two years.

(C) To be eligible to enroll in the Aging in Place pilot program, an individual must meet all of the following requirements:

(1) The individual must be at least fifty years of age or a veteran of any age.

(2) The individual must be a resident of one of the counties in which the pilot program is established.

(3) The individual must reside in a private residence that is not a nursing home, residential care facility, residential facility, or other facility that may not operate legally without a license, certificate, or other authority issued by an agency of this state or a political subdivision of this state.

(4) The individual or a member of the individual's household must own the private residence in which the individual resides.

(5) The individual must be at risk of moving to a nursing home or residential care facility due to a medical condition.

(6) The private residence in which the individual resides must be in need of a repair or modification covered by the pilot program.

(7) The individual must meet any other requirements specified in rules adopted under this section.

(D) The Aging in Place pilot program shall cover home repairs and modifications specified in rules adopted under this section.

(E) The Department of Aging shall contract with an organization that meets all of the following requirements to administer the Aging in Place pilot program:

(1) It must have been founded not later than 1975.

(2) It must provide professional and critical home repair and modification services to individuals who reside in the counties in which the pilot program is established and have low incomes or are elderly or disabled.

(3) It must be exempt from federal income taxation under section 501(a) and described in section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended.

(F) The Aging in Place administrator may help coordinate the home repairs and modifications provided under the Aging in Place pilot program with home health services that individuals enrolled in the pilot program receive under the Medicaid program or other programs.

(G) The Aging in Place administrator shall seek nongovernmental funds to help pay the costs of the Aging in Place pilot program.

(H) The Department of Job and Family Services shall apply to the United States Secretary of Health and Human Services for a federal Medicaid waiver to make the Aging in Place pilot program a component of the Medicaid program. If the waiver is granted, the Department of Job and Family Services shall enter into an interagency agreement with the Department of Aging under section 5111.91 of the Revised Code regarding the Department of Aging's duties under this section and the Department of Aging shall establish the pilot program as a Medicaid component. If the waiver is not granted, the Department of Aging shall establish the pilot program as a non-Medicaid program.

(I) The Director of Aging shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. If the Aging in Place pilot program is established as a Medicaid component, the Director of Job and Family Services shall adopt any rules that are necessary for the Director of Aging

to be able to adopt the rules for the pilot program.

(J) Not later than ninety days after the termination of the Aging in Place pilot program, the Department of Aging shall prepare a report regarding the pilot program. On completion of the report, the Department shall submit it to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly. The report shall include the Department's conclusions regarding all of the following:

(1) The number of individuals in the state who would benefit from the services covered by the pilot program if the services were made available statewide;

(2) How governmental and nongovernmental resources can be leveraged most efficiently to make the services available statewide;

(3) The costs, if any, that the Medicaid program and other governmental health care programs would incur if the services were available statewide;

(4) The impact that the services would have on the quality of patient care and treatment;

(5) The impact that the services would have on the communities in which they would be provided;

(6) The overall costs and benefits to the state that the services would have.

Section 751.20. The amendments by this act to Section 3 of Am. Sub. S.B. 38 of the 120th General Assembly eliminate the exemptions from the requirements of sections 3701.881 and 5126.28 of the Revised Code that Section 3 of that act gave to persons who, before October 29, 1993, were employed or had applied for employment in positions covered by sections 3701.881 and 5126.28 of the Revised Code. The amendments by this act to Section 3 of

Am. Sub. S.B. 160 of the 121st General Assembly eliminate the exemptions from the requirements of sections 173.41 (as subsequently renumbered as 173.394) and 3701.881 of the Revised Code that Section 3 of that act gave to persons who, before January 27, 1997, were employed or had applied for employment in positions covered by sections 173.41 (173.394) and 3701.881 of the Revised Code. The exemptions are eliminated in conjunction with this act's amendments to sections 173.394, 3701.881, and 5123.081 of the Revised Code and the repeal of section 5126.28 of the Revised Code so that the Directors of Aging, Health, and Developmental Disabilities may adopt rules under those amended sections to make persons formerly exempt from the requirements of sections 173.394, 3701.881, and 5126.28 of the Revised Code subject to the requirements of sections 173.394, 3701.881, and 5123.081 of the Revised Code.

Section 753.11. (A) Notwithstanding section 3313.41 of the Revised Code, during the period beginning June 30, 2005, and ending December 31, 2005, a school district board of education in support of economic development within the territory of the district may dispose of real property that it owns in its corporate capacity, and that exceeds in value ten thousand dollars, by direct sale in lieu of offering the property for sale at public auction as provided in division (A) of that section, in lieu of offering the property for sale to an entity listed in division (C) of that section, or in lieu of offering the property for sale to a community school as provided in division (G) of that section, if all of the following conditions are satisfied:

(1) The real property is encumbered by easements, liens, or other use restrictions that benefit the person acquiring the property under this section;

(2) The real property was part of or adjacent to real

property previously disposed of by the board of education;

(3) The real property when sold will be used for commercial development.

(B) Notwithstanding division (A)(3) of this section, on or after the effective date of this section, the real property may be used for residential development as well as commercial development.

Section 753.13. That Section 2 of Am. Sub. S.B. 63 of the 121st General Assembly is repealed.

This repeal releases the use, ownership, and conveyance restrictions, and rescinds the state's right of reversion, with respect to real estate conveyed to the City of Broadview Heights under Section 1 of Am. Sub. S.B. 63 of the 121st General Assembly.

Section 753.14. Within thirty days after the effective date of Section 753.13 of this act, the Auditor of State, with the assistance of the Attorney General, shall, consistent with that section, prepare a deed to the real estate. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the office of the Auditor of State for recording, and delivered to the City of Broadview Heights. The City of Broadview Heights shall present the deed for recording in the Office of the Cuyahoga County Recorder.

Section 755.10. One year after the effective date of this act, the Director of the Department of Rehabilitation and Correction, after consultation with the State Highway Patrol, the Department of Public Safety, the Fraternal Order of Police of Ohio, and the Buckeye State Sheriff's Association, shall submit a written report to the Governor, the President of the Senate, the

Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives on the effectiveness of the State Highway Patrol's authority to enforce the criminal laws in the Lake Erie Correctional Institution pursuant to section 5503.03 of the Revised Code, as amended by this act.

Section 757.10. A board of township trustees or the legislative authority of a municipal corporation to which section 5705.19 or 5705.252 of the Revised Code applies, as enacted or amended by this act, may adopt the resolution proposing the levy of the tax or the combined questions authorized by those enactments or amendments and certify a copy of the resolution to the proper county board of elections as otherwise prescribed by law after this act becomes law and before the effective date of those enactments or amendments, requesting that the board of elections submit the proposal to the electors at the general election occurring on November 6, 2012. The board of elections, upon receiving a properly certified copy of such a resolution not later than four p.m. on August 8, 2012, shall submit the proposal to electors at that election as otherwise provided under section 5705.25 or 5705.252 of the Revised Code, and such actions of the board of township trustees, municipal legislative authority, and board of elections are hereby ratified.

Section 757.20. As used in this section, "qualified property" means real property that either:

(A) Satisfies the qualifications for tax exemption under the terms of section 5709.07 of the Revised Code and is owned by a church as defined in that section;

(B) Satisfies the qualifications for tax exemption under the terms of section 5709.08 of the Revised Code and is owned by a

township that acquired the property from a county.

Notwithstanding section 5713.081 of the Revised Code, when qualified property has not received tax exemption due to a failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the current owner of the property, or the prior owner of the property requesting exemption from prior taxes, at any time on or before twelve months after the effective date of this section, may file with the Tax Commissioner an application requesting that the property be placed on the tax-exempt list and that all unpaid taxes, penalties, and interest on the property be abated.

The application shall be made on the form prescribed by the Tax Commissioner under section 5715.27 of the Revised Code and shall list the name of the county in which the property is located; the property's legal description; its taxable value; the amount in dollars of the unpaid taxes, penalties, and interest; the date of acquisition of title to the property; the use of the property during any time that the unpaid taxes accrued; and any other information required by the Tax Commissioner. The county auditor shall supply the required information upon request of the applicant.

Upon request of the applicant, the county treasurer shall determine if all taxes, penalties, and interest that became a lien on the qualified property before it first was used for an exempt purpose and all special assessments charged against the property have been paid in full. If so, the county treasurer shall issue a certificate to the applicant stating that all such taxes, penalties, interest, and assessments have been paid in full. Prior to filing the application with the Tax Commissioner, the applicant shall attach the county treasurer's certificate to it. The Tax Commissioner shall not consider an application filed under this section unless such a certificate is attached to it.

Upon receipt of the application and after consideration of

it, the Tax Commissioner shall determine if the applicant meets the qualifications set forth in this section, and if so shall issue an order directing that the property be placed on the tax-exempt list of the county and that all unpaid taxes, penalties, and interest for every year the property met the qualifications for exemption described in section 5709.07 or 5709.08 of the Revised Code be abated. If the Tax Commissioner finds that the property is not now being so used or is being used for a purpose that would foreclose its right to tax exemption, the Tax Commissioner shall issue an order denying the application.

If the Tax Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the current or prior owner claims an exemption or abatement, the Tax Commissioner shall order the county treasurer of the county in which the property is located to collect all taxes, penalties, and interest due on the property for those years in accordance with law.

The Tax Commissioner may apply this section to any qualified property that is the subject of an application for exemption pending before the Tax Commissioner on the effective date of this section, without requiring the property owner to file an additional application. The Tax Commissioner also may apply this section to any qualified property that is the subject of an application for exemption filed on or after the effective date of this section and on or before twelve months after that effective date, even though the application does not expressly request abatement of unpaid taxes, penalties, and interest.

Section 757.51. The amendment by this act of section 5713.03 of the Revised Code applies to the first tax year, after tax year 2012, to which division (A) or (B) of section 5715.24 of the

Revised Code applies in the county.

Section 757.61. The General Assembly hereby declares that the intent of the amendment by this act of section 5739.02 of the Revised Code is to clarify the law as it existed prior to the amendment by this act of that section.

Section 806.10. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

Section 809.10. Sections 301.11 to 301.15 of this act are and remain in full force and effect commencing on July 1, 2012, and terminating on June 30, 2014, for the purpose of drawing money from the state treasury in payment of liabilities lawfully incurred under those sections, and on June 30, 2014, and not before, the moneys hereby appropriated lapse into the funds from which they are severally appropriated. If, under Section 1c of Article II, Ohio Constitution, Sections 301.11 to 301.15 of this act do not take effect until after July 1, 2012, the sections are and remain in full force and effect commencing on that effective date.

Section 812.10. Sections subject to referendum: general effective date. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State.

Section 812.11. Sections subject to referendum: special effective date. The amendment by this act of sections 4735.01, 4735.02, 4735.052, 4735.10, 4735.13, 4735.14, 4735.141, and 4735.142 of the Revised Code is subject to the referendum under Ohio Constitution, Article II, Section 1c and takes effect on the ninetieth day after the day on which this section takes effect.

Section 812.20. Sections exempt from referendum: general effective date. The amendment, enactment, or repeal by this act of the following sections is exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law:

Sections 145.01, 145.012, 167.04, 306.04, 306.36, 340.091, 901.54, 2927.023, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 3125.41, 3734.131, 3734.15, 3743.06, 3743.19, 3752.06, 4163.07, 4303.22, 4501.01, 4501.06, 4503.81, 4506.01, 4506.03, 4506.22, 4506.25, 4511.78, 4513.50, 4905.01, 4905.02, 4905.03, 4905.05, 4905.06, 4905.402, 4905.54, 4905.57, 4905.58, 4905.80, 4905.801, 4905.81, 4905.82, 4905.83, 4905.84, 4907.01, 4907.02, 4907.04, 4907.08, 4907.19, 4907.28, 4907.35, 4907.37, 4907.43, 4907.49, 4907.57, 4907.59, 4907.60, 4907.61, 4907.62, 4909.01, 4909.02, 4909.03, 4909.17, 4909.22, 4909.24, 4909.28, 4911.01, 4919.75, 4919.76, 4919.77, 4919.78, 4919.79, 4919.99, 4921.01, 4921.02, 4921.03, 4921.04, 4921.05, 4921.06, 4921.07, 4921.08, 4921.09, 4921.10, 4921.101, 4921.11, 4921.12, 4921.13, 4921.14, 4921.15, 4921.16, 4921.17, 4921.18, 4921.19, 4921.20, 4921.21, 4921.23, 4921.24, 4921.25, 4921.26, 4921.27, 4921.28, 4921.30, 4921.31, 4921.32, 4921.34, 4921.35, 4921.36, 4921.37, 4921.38, 4921.39, 4921.40, 4921.99, 4923.01, 4923.02, 4923.03, 4923.04, 4923.05, 4923.06, 4923.07, 4923.08, 4923.09, 4923.10, 4923.11, 4923.12, 4923.13, 4923.14, 4923.15, 4923.17, 4923.20, 4923.26, 4923.99,

4927.01, 4929.01, 4929.02, 4933.18, 4933.19, 4939.01, 4953.04, 4961.03, 4965.54, 5119.691, 5503.02, 5503.34, 5743.031, and 5751.033 of the Revised Code.

Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly, as amended by Am. Sub. H.B. 153 of the 129th General Assembly.

Section 201 of Sub. H.B. 123 of the 129th General Assembly.

Section 1 of H.B. 124 of the 129th General Assembly.

Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 207.20.90, 209.10, 209.30, 211.10, 215.10, 223.10, 229.10, 243.10, 261.10, 261.10.10, 261.10.20, 261.10.30, 261.10.40, 261.10.50, 261.10.60, 261.10.70, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 261.20.40, 261.20.50, 261.20.60, 261.20.70, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.50, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.20, 267.10.40, 267.30.40, 279.10, 283.10, 287.10, 291.10, 307.10, 309.10, 313.10, 315.10, 323.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 367.10, 369.10, 371.10, 371.30.30, 371.50.61, 371.50.65, 371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, and 521.70 of Am. Sub. H.B. 153 of the 129th General Assembly.

Section 247.10 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 319 of the 129th General Assembly.

Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 371 of the 129th General Assembly.

Sections 701.70.10, 701.80, and 733.10 of this act.

Sections 812.20 and 812.21 of this act.

Section 812.30 of this act insofar as it refers to parts of sections that are exempt from the referendum.

Section 812.21. Sections exempt from the referendum: special effective date. The amendment by this act of sections 3313.976, 3313.978, and 3313.979 of the Revised Code is exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and is therefore entitled to take effect immediately when this act becomes law. However, the amendment of those sections takes effect on July 1, 2012, or the date this act becomes law, whichever is later.

Section 812.30. Mixed sections: general effective dates. The sections listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum. The middle column identifies amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State. The right-hand column identifies amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law.

Section of law	Amendments subject to referendum	Amendments exempt from referendum
4905.90	The amendment in division (A)	All amendments except as described in the middle column
5111.941	The amendment that inserts division (A)(4)	All amendments except as described in the middle column
5119.61	All amendments except as	The amendment in

	described in the right-hand column	division (A) striking "(C)" and inserting "(D)" and the amendment in division (F) striking "abuse" and inserting "addiction"	
5119.69	The amendments in relettered divisions (D)(1)(b) and (c)	All amendments except as described in the middle column	82737
5502.01	All amendments except as described in the right-hand column	The amendment in division (F)	82738

Section 815.20. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 102.02 of the Revised Code as amended by both Am. Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly.

Section 121.04 of the Revised Code as amended by both Am. Sub. H.B. 153 and Sub. H.B. 229 of the 129th General Assembly.

Section 123.01 of the Revised Code as amended by both Am. Sub. H.B. 133 and Am. Sub. H.B. 153 of the 129th General Assembly.

Section 124.11 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 149.43 of the Revised Code as amended by both Sub. H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly.

Section 1923.01 of the Revised Code as amended by both Sub. H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly.

Section 1923.02 of the Revised Code as amended by both Sub. H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly.

Section 3301.55 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 4123.54 of the Revised Code as amended by both Am. Sub. H.B. 562 and Am. Sub. S.B. 334 of the 127th General Assembly.

Section 4731.22 of the Revised Code as amended by both H.B. 78 and Am. Sub. H.B. 93 of the 129th General Assembly.